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Vol. II.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 852: 73

THE INTERSTATE COMMERCE COMMISSION,
APPELLANT,

vs.

THE CHICAGO GREAT WESTERN RAILWAY COMPANY
ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

FILED JULY 28, 1906.

(20,317.)

A. SYKES, called as a witness in behalf of the petitioner, having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. What is your name?
A. A. Sykes.
Q. Where do you live?
A. Ida Grove, Iowa.
Q. On what railroad?
A. C. & N. W.
Q. What is your business?
A. Farmer and feeder and shipper.
Q. Of what?
A. Live stock.
Q. Hogs and cattle?
A. Yes sir.
Q. To where do you ship?
A. To Chicago.
Q. How often?

A. I just feed what I ship, that is, I ship what I feed
1622 myself, my own feeding, perhaps four to six times a year I ship into Chicago.

Q. How long have you been in the business?
A. I have been shipping from Ida Grove for twelve years.
Q. Is that a large shipping station?
A. Yes sir.
Q. Are there any larger shipping stations than that on the Northwestern?
A. I think not.
Q. Are you well acquainted with the situation, size and conditions of the stock yards at that place?
A. Yes sir.
Q. Do you know the cost and expense of construction of structures similar to the stock yards?
A. Yes sir, buildings, and the price of labor and material.
Q. Do you know definitely or approximately the value of the stock yards there, and the cost of construction?
A. I believe I do, yes sir.
Q. State the size of the stock yards and their value?
A. The stock yards at Ida Grove consists of nine pens, or eight pens, and a receiving pen. Those pens, to the best of my knowledge are 48 foot square, the receiving pen is a little smaller; and a scale and watering troughs in some of the pens, some of — have watering troughs, and some haven't.
Q. What is the character of construction?
A. The yards are built of boards solid from the bottom up, five foot high, with a post every eight foot.
Q. With scantling between to nail the boards to?

A. No sir, the boards are nailed right on to the posts, the
1623 posts are set in the ground, and the boards are nailed lengthwise on the posts the same as you make a board fence, but nailed

solid, instead of leaving spaces between the boards, it is a solid fence from the ground up. And then the chutes are built of about inch stuff, the loading chutes.

Q. How many chutes?

A. Two loading chutes.

Q. What sort of stuff are these boards?

A. At the loading chutes?

Q. No, the boards?

A. The boards are what we call sheathing, ordinary sheat-ing, inch boards.

Q. One by twelve or one by six?

A. Any width, there is no regular width in them.

Q. How long have these stock yards been built?

A. Well, to the best of my knowldege, it is twelve years since they were built.

Q. What condition are they in?

A. I wish to explain there, the stock yards were on the other side of the track, on the south side of the track, and to the best of my knowledge twelve years ago they were moved across on to the north of the track, and rebuilt out of new material.

Q. Out of the old material?

Mr. SEVERANCE: All new, he said.

The WITNESS: All new material to the best of my knowl-
1624 edge, yes sir. Unless it was for kind of patching up or something, I don't think there was anything of the old yards used to any extent.

Mr. COWAN:

Q. What is their condition now?

A. The condition, I would say that they are in fair repair.

Q. What would it cost to keep those stock yards in repair of the character of repairs that have been made on them for the last twelve years?

Mr. LYNDE: Your Honor, I object to that question. There is no foundation laid for that. We don't know what the character of the repairs is that was made on them, or what this witness knows as to that, or the cost.

The COURT: What do you know about that? Do you know about the repairs made on them by the company?

A. I think I know of most of the repairs that have been made there. I live right there in Ida Grove, and visit the yards frequently.

The COURT: Answer the question.

A. To the best of my knowledge there has been——

Mr. LYNDE: I still make my objection.

The COURT: The objection is overruled.

A. There has been three watering troughs replaced in the twelve years, at a cost, I would say, of $3 apiece. It takes a hundred
1625 foot of lumber to construct each one of those watering troughs, which is worth on the market there, $20 a thousand, that class

of material. And as to the other repairs, I should make an estimate of $100 including the watering troughs.

The COURT: One hundred dollars for the whole period?

A. Yes sir, $100 for the whole time including the watering troughs and all. That has been in repairing gates and such as that. There has been no material repairs in other respects, except in the gates and something of that kind, on account of the substantial condition of the yards, being built in the first place the way they were, substantially built, why the yards have been kept in good repair with very little expense.

Mr. COWAN:

Q. Now, what is the cost of those stock yards, what is the value of the stock yards, or the cost of building?

Mr. LYNDE: I object to that on the same ground, there is no foundation laid to show the competency of the witness.

The COURT: The objection is overruled.

A. I would say, in making a fair estimate, and I have endeavored to be fair in this matter and figure out, as I am well posted on the price of materials and labor there, that those yards would cost at Ida Grove, right around $1,000, $800 to $1,000 complete as they stand, when they were constructed.

1626 Mr. COWAN:

Q. $800 to $1,000 when they were constructed?

A. Yes sir. That includes the land and the scale and all that pertains to the yard, except the trackage, the switch.

Q. Is that switch used for other purposes besides stock yards business?

A. Well, not to any great extent.

Q. Who loads the cars, in loading, the shipper or the railroad?

A. The shipper.

Q. Who sets the cars to the chutes, the shipper or the railroad?

A. Well, now, if we are only shipping a few loads, the shipper sets them. If we have a train load, we have to wait for an engine, that is the condition there.

Q. Do the cars always come to you clean?

A. No sir.

Q. What percentage of cars come to you cleaned?

A. Well, now that would be a difficult question to answer correctly. I would say this: In the summer a much larger per cent. of cars come to us clean than in the winter-time. In the winter-time a small per cent. of the cars come to our station cleaned, in the summer-time a large per cent. come cleaned.

Q. What sort of bedding do you use in the shipment of cattle and hogs?

A. We use straw altogether for cattle in our territory, and for hogs in cold weather, during the warmer monts*h*, we use sand or gravel, sometimes cinders.

Q. Who furnishes the sand and gravel?

1627 A. The Northwestern railroad company.

Q. How much do you put in a car?

A. I estimate it at a yard of sand to bed a car.

Q. How do you come to estimate it at a yard?

A. Well, sir, when I used to bed my hog cars with cinders, we put in a yard of cinders, and so when we come to bed our cars for hogs with sand, we shoveled until we thought we had in about that amount.

Q. How do you know you put in a yard of cinders?

A. How do I know?

Q. Yes, sir, did you haul it?

A. Yes sir, hauled it on a wagon. We have a grist mill in Ida Grove and they gave us the cinders for hauling them away, and we bedded with those cinders.

Q. Are the sizes of the stock trains in which stock are carried now, greater or less than they were ten years ago?

A. Greater.

Q. What was the relative sizes of the trains ten years ago and now, in which live stock is carried?

A. I should say from a third to a half greater now than they were ten or twelve years ago, that is in numbers, number of cars.

Q. What was the size of trains ten years ago, how did they range?

A. Oh, from about 15 to 22 or 23 cars possibly, to the best of my knowledge, my recollection.

1628 Q. How is it now?

A. 30 to 42 and 43 and sometimes 45 cars they run on their stock trains.

Q. What time do you load in order to reach Chicago for example, on Monday morning's market?

A. Under present conditions at our station, we are compelled to load there, unless we have a special train, for what is called No. 34, that is due in Ida Grove at 7:00 o'clock, and it is liable to arrive anytime between that and daylight. It is a local train and sometimes we load at ten o'clock in the night, and sometimes at two in the morning, just as the train arrives, of course, we load. That is the conditions. If we have a special train, why, of course, there is an engine sent up there, and we load when they arrive, usually about seven o'clock in the evening.

Q. To reach Chicago for Monday morning?

A. Yes sir.

Q. What station do you go to, to get on the regular main line train?

A. Carroll, Iowa; the division point is Carroll, Iowa now.

Q. Are you on the main line, or a branch line?

A. No sir, I am on the branch between Carroll and Sioux City, what is called the Des Moines Branch.

Q. How far from Chicago?

A. 438 miles.

Q. How many hours does it generally take you from your place to Chicago?

A. 28 to 36 hours, depending on the conditions, weather conditions and so forth and so on.

1629 Q. How long does it generally take from your place to Carroll and from Carroll to Chicago?

A. Well, now, that local train runs very slow down there. We usually spend five or six hours running down there to Carroll.

Q. So you deduct that from the other figures you gave. I say if you deducted that from the other figures, that would give the length of time to come to Chicago?

A. Yes sir.

Q. Twenty-three to 28 or 29 hours?

A. From Carroll, yes sir, that is it.

Q. Now, do you know anything about meat trains, and whether they run faster or slower than live stock trains?

A. Yes sir.

Q. What do you know about that?

A. I happened to have the good fortune to get on a meat train once, when I was shipping some stock out of Sioux City.

Mr. LYNDE: That I move to have stricken out.

The COURT: The motion is overruled.

Mr. COWAN:

Q. Go ahead.

A. I was in Sioux City buying some feeder, and at that time the Northwestern run their meat train from Sioux City to Carroll, and connected with the main line train there from Omaha, which they are not doing at the present time, and this train left Sioux

1630 City at a time when I could get home along about five o'clock in the afternoon, and if I waited for the local No. 34, I would not get in there perhaps until ten o'clock, or midnight, and I made a fight to get on that meat train, and I finally succeeded through the assistance of some of my friends there, and I got on to the meat train and my stock was shipped on and sent down to Ida Grove on this refrigerator train. I say, it was a meat train—it was a refrigerator train, and the trainmen said it was dressed meat, that is all I know about it I did not see inside of the cars.

Q. And what speed did you make?

A. We run at the rate of 25 miles an hour on that trip.

Q. Now, in your observation, from your shipping experience, do the live stock trains run any faster than the meat trains?

A. Well, taking this one case for example, I should say—please state that question again.

Q. From your experience and observation, do the live stock trains run faster than the meat trains?

Mr. DAWES: I object, your Honor. He has not shown the slightest experience or observation, except this last incident.

The COURT: He may answer what rate of speed the stock trains run.

Mr. DAWES: He told that the only beef train he ever saw, he rode on practically.

1631 The COURT: I know what he said about that. Now, what rate do the stock trains run?

A. Well, now, figuring at the rate that it takes us to run from Ida Grove to Chicago, it would figure 16 or 17 miles an hour, I guess, in the neighborhood of that.

Q. Did you ever have any other experience or observation of dressed meat trains?

A. I never rode on any other dressed meat train, no sir.

The COURT: That is all.

The WITNESS: And I say, that is the only way I can determine is to ride on the trains, then I know how fast they run.

Mr. COWAN:

Q. Do you come with your live stock yourself?

A. Nearly always, yes sir, I nearly always accompany the stock.

Q. Did you ever observe any side tracking of live stock trains to let meat trains pass, or side tracking of meat trains to let live stock trains pass?

A. I have at division points, where we have been lying there. Of course, they said we were waiting to get out. Now, of course, it is pretty hard for stockmen to tell what they are waiting for. They will tell you they are waiting to get out.

Mr. LYNDE: I object to that.

The COURT: Yes, just answer the question.

Mr. COWAN:

Q. Do you know of dressed meat trains coming in and
1632 going out ahead of you?

A. Yes sir, I have observed dressed meat trains pass at these division points where we were waiting to get out, as they called it.

Q. Going in the same direction you were?

A. Going in the same direction we were, yes sir.

Q. Pass you and go on ahead of you?

A. Yes sir. They would go on and we would lie there.

Q. Did you catch up with them then when you went on?

A. No sir, not to the best of my knowledge.

Q. What is the weight of your cattle that you shipped?

A. I usually pay freight on 22,000 to 24,000 pounds.

Mr. DAWES: I suggest that the witness answer the questions, your Honor.

The COURT: Yes, answer the question. The question is: What is the weight. Repeat the question.

Mr. COWAN:

Q. What do the cattle weigh that you ship per car, a 36 foot car?

A. What do they weigh?

Q. Yes sir.

A. Now, do you mean, what do I pay freight on, or what do I actually load.

Q. You answered my question, now they want you to answer a question. What do they weigh?

Mr. DAWES: He may not pay on all he ought to.
Mr. COWAN: That is true.
A. The load of cattle, do you mean?
1633 Q. Yes.
A. We usually load about 26,000, 24,000 to 26,000.
Mr. LYNDE: And pay on 22,000 pounds.

Mr. COWAN:

Q. Now, taking the stock yards, other than Ida Grove, what ones do you know about?
A. Why, I never shipped from any station only Ida Grove.
Q. I didn't ask you about that, I asked you the others that you knew about.
The COURT: Do you know of any others?
A. Yes sir.

Mr. COWAN:

Q. What stock yards?
A. Battle Creek, Arthur, Danbury.
Q. Are these stock yards at Ida Grove larger or smaller than the other stock yards along the line?
A. They are larger.
Q. What are the sizes of the other stock yards?
A. They usually contain six pens.

Mr. DAWES: If your Honor please, I don't know whether you have passed on this particular question or not, but it seems to me so obvious that we ought not to be compelled to go into this, that I venture again to object. The only testimony which this
1634 can possibly rebut, is testimony, if this is the Northwestern road to which he is referring, the testimony of Mr. Gardner, who testified to the general cost of the stock yards on his line. Now, if he should prove ten, twenty or thirty out of six hundred yards, it would not tend in any way to rebut the testimony of Mr. Gardner that the average cost was $1200, or whatever it was he testified. He may pick out fifty, and these may be the fifty that he is now testifying about that cost less than the average; but it has no tendency whatever to rebut the testimony of Mr. Gardner on that subject unless my Brother says that he is going far enough into this question, going to examine enough of these men on particular stock yards to refute the conclusion Mr. Gardner drew. In such a case as that, I acknowledge the testimony would be competent, but no isolated case under any rule of evidence is admissible in any court.

The COURT: I think that is true. I am letting it go in on the theory it is the shortest way around it, unless you are going to introduce a whole lot of it, in which case, I would shut it all out.

Mr. COWAN: If the Court please, I am going to ask the witness another question in regard to that. These stock pens as shown are of substantially the same character, some larger and some smaller. Dependent on the number of pens, they are all built substantially alike. Certainly it would not be necessary to go into the construc-

tion of all of these pens to inform the Court as to the prob-
1635 able cost of repairs and the like, and if Mr. Gardner has mistakenly stated the cost of the pens, or mistakenly stated the cost of the repairs, certainly if I have taken Ida Grove, which is the largest stock yards in that part of the country, and stated what that originally cost, and what the repairs cost, then it seems to me a fair inference that other stock yards of that size and character did not cost more, and the repairs did not cost more.

The COURT: I do not think it is worth while to take time on that. The best way to get at it is to go through them and measure them, and examine the prices, and prove it. That would be the best evidence. The other side has given evidence of what their records show they cost. I don't think it is worth while to go into that to any great extent.

Mr. COWAN:

Q. What is the weight of the bedding in your car?

A. We bed with straw there, and we figure to bed three cars with a good load of straw; that would perhaps be about 500 pounds to the car.

Q. Does the shipper furnish it?

A. Yes sir.

Q. What is the weight of the bedding and the contents of the car after your live stock are unloaded from the car?

A. I have no way of knowing that only to estimate it.

Q. Well, according to your judgment, you see it?

1636 Mr. LYNDE: I object to that.

The COURT: He can give his judgment, the objection is overruled.

A. My judgment would be that in dry weather, it would vary from 600 to 800 pounds, and during a trip of rainy, wet weather, when it absorbed the moisture, and it remained, the refuse, perhaps 800 to 1000 pounds.

Mr. COWAN:

Q. How much sand do you put in your bedding per car for hogs?

A. This refers to cars bedded with straw, this estimate. How much sand?

Q. How much sand is put in for bedding hogs?

A. I answered that question once.

The COURT: He said a yard.

Mr. COWAN:

Q. What proportion of the cars are bedded with straw and what proportion with sand?

A. That is a difficult question for me to answer.

Q. Well, it would save a great deal of time if you would say, you estimate it instead of saying you can't answer.

A. I should say a third.

Q. A third what?

A. A third of the cars are bedded with sand.
Q. Are the cars cleaned in winter?
A. Very few of them.

Mr. LYNDE: He has gone all over that your Honor.

1637 Cross-examination by Mr. LYNDE:

Q. How long have you lived there in Ida Grove?
A. Fifteen years.
Q. How did you happen to come here Mr. Sykes, to-day?
A. I had a subpœnae from the United States Court.
Q. Did you talk with these gentlemen before you came here?
A. No sir, I never saw them.
Q. Did you have any communication from Mr. Cowan as to this?
A. No sir, I never saw any of them.
Q. You don't know how they got your name do you?
A. No sir.
Q. You never met the gentlemen before, did you?
A. No sir. Yes sir, I have met Mr. Cowan before, I met him here at the Convention in August.
Q. Have you talked with him about what you were going to testify to here?
A. At that time?
Q. Here, yes, to-day, before you went on the witness stand, have you?
A. Yes sir.
Q. Now, you ship from Ida Grove four or six times a year?
A. Yes sir.
Q. How many years have you done that?
A. Well, I would say ten years, since I have been in the regular business. Before that I did not ship so heavy, did not feed
1638 so heavy.
Q. Do you live in Ida Grove yourself?
A. Yes sir.
Q. And your business, you say is farming?
A. Yes sir, I run a ranch outside of Ida Grove about three miles.
Q. How much of your time do you give to the farm.
A. I give it all only when I am called away on some other business.
Q. That is where you spend your time practically, is on your farm?
A. Yes sir.
Q. What do you know about other stations besides Ida Grove on the Northwestern, you know two or three?
A. Yes sir.
Q. Do you know of any others?
A. I know of them, yes sir.
Q. Of your own personal knowledge is what I want to know, what do you know as to them?
A. Nothing only in a general way, just stopping off as the trains went through, that is all.

Q. You have stated here that you know that the Ida Grove stock yards is the largest, as I have it here, largest stock yard on the Northwestern road in Iowa?

A. No sir, I didn't, I don't think I made that statement.

Q. Well, I understood you to say that?

A. No sir, I didn't, I said in our territory.

Q. In your territory?

A. Yes sir.

1639 Q. What do you mean by your territory?

A. Ida County.

Q. The largest in your county?

A. Yes sir.

Q. What others are there there, besides Ida Grove, what other stock yards?

A. Battle Creek, Arthur, Holstein, Galva, Schaller.

Q. All in this same county?

A. Yes sir, but on a different branch.

Q. Do you ship over that branch?

A. No sir.

Q. Do you have anything to do with the stock yards at those different points that you have named?

A. No sir.

Q. But that is what you mean when you speak of Ida Grove Station, or stock yards as being the larger, is it?

A. Yes sir.

Q. Now, they put up pretty good stock yards there twelve years ago?

A. Yes sir, they did, I give them credit for that, the Northwestern people.

Q. Well, I am much obliged to you. They have kept it in pretty good condition up to this time, haven't they?

A. Yes sir.

Q. How much of your time, by the way, do you spend out on that farm, do you say?

A. Oh, I should say that on an average——

Q. Every week?

A. Sir?

Q. Every week, how much of your time are you out there?

1640 A. I should say on an average, four days out of the week.

Q. Have you got a house there?

A. I think so, I have a family living there, a hired man.

Q. Do you stay out there when you go?

A. I stay out there for my dinner and come home in the evening.

Q. Your daytimes you spend out there at least four days a week?

A. Yes, sir, I should think in the neighborhood of that.

Q. And yet you state here that you are able to state what repairs have been made on this stock yard at Ida Grove during the last twelve years?

A. Yes, sir, I think any man in the stock business could see for himself.

Q. You saw what was done?

A. Yes, sir.

Q. How about cleaning?
A. That didn't include the cleaning, no, sir. We were not talking about the cleaning at all, it was repairs on stock yards.
Q. Well, we are at present. How about cleaning, who does it?
A. The railroad company, I presume.
Q. You don't?
A. No, sir.
Q. Now, do you think you are better qualified to state as to the amount of repairs that are done to that stock yards than the man who is in charge of that work?
A. Perhaps as well.
Q. And as to the cost?
A. Yes, sir.

Q. You estimated the whole thing, did you, at the time it
1641 was built?

A. In a general way, yes, sir.
Q. How about the value of the land there, do you know anything about that?
A. Yes, sir, I am pretty well posted on the value of the land.
Q. Well, just tell how many feet of lumber went into the stock yards when it was built?
A. No, sir, I couldn't do that.
Q. How about the prices of lumber at the time the stock yards were built?
A. My recollection was, I figured the lumber at $20 a thousand.
Q. I know, but what was the price at the time the stock yards were built?
A. Perhaps it wasn't that much, it was quite cheap at that time, I should say about $15.00 a thousand.
Q. Are you able to state that of your own knowledge, that that was true?
A. Yes, sir, I should say so.
Q. What is it worth now at your place?
A. That class of lumber is worth $18 to $20 a thousand.
Q. Worth less than your estimate, you think it was worth more, that is you have given a higher estimate?
A. I wanted to give the railroad people the benefit of the doubt in this case.
Q. How many feet did you figure on?
A. I figured on 250 feet to each side of the pen.

Q. Well, you load your cattle 26,000 pounds to the car,
1642 do you?

A. That depends on how many, just how large my loads are, what they weigh, and how large the cattle are.
Q. You said that was your average load?
A. I said, 24,000 to 26,000 pounds if you please.
Q. And you paid on 21,000 to 22,000 I think you said?
A. No, sir, I said 22,000 to 24,000 pounds.
Q. How much over weight do you get there per car, on the average, 2,000 pounds?
A. Perhaps, yes, sir.

Q. That would certainly balance your account, won't it. Now, how about the scales, what do you know about the cost of scales when they were put in there?

A. Why, I know what scales cost, I don't know what that one cost, but I know what I can buy them for.

Q. Now or then?

A. Yes, then or now either. They are cheaper now than they were then.

Q. Did you ever buy one?

A. I never bought one of that particular make, I have a scale on my farm.

Q. Is there a switch into that yard?

A. Yes, sir.

Q. Used for that purpose alone, for the stock purposes of that yard?

A. Not entirely, no.

Q. To what extent?

A. Largely, I would say.

Q. What purposes otherwise, is it used for?

A. For switching in dead freight, coal cars and box cars and such like that comes into the general traffic.

Q. Now, when you put in the bedding in a car, using sand,
1643 how deep do you spread it?

A. I should estimate about an inch, possibly not that much, but not to exceed that.

Q. Now, these cars that you have, that you load in, what are the measurements?

A. Usually we use the 6 foot.

Q. 36 foot you mean?

A. 36, yes sir.

Q. Is that inside measurement?

A. I could not say as to that.

Q. How wide?

A. They call them 8 foot, I think. I never measured the cars.

Q. 8 feet 6 isn't it. Did you ever measure these pens?

A. No, sir.

Q. Give us an estimate, you have been doing so as to the pens, what do you say to the cars?

A. I told you in my direct testimony the pens were 48 foot square.

Q. I am not talking about pens, but as to the cars, how wide are they?

A. I didn't get that question.

Q. As to the width of the car?

A. I say, I never measured the cars.

Q. I know it, but I want you to give an estimate, you have given us one on other things that you have not measured?

A. I should say they were 8 foot.

Q. Very well. Now, that is 288 square feet inside of the car.

A. I didn't figure it out at all.

Q. Well, that is what it is, 36 by 8 feet.

1644 A. All right, I will take your word for it.
Q. That you covered to the depth of about an inch you think?
A. I should say not to exceed that.
Q. Now, Mr. Sykes, you are on the branch line?
A. Yes, sir.
Q. Carroll is the division point, you say?
A. Yes, sir.
Q. When you have loaded cars there, how many cars would you load?
A. At Ida Grove?
Q. Yes.
A. When I loaded?
Q. Yes.
A. I scarcely ever ship more than three cars, sometimes four, but usually two to three cars at a time.
Q. Well, how would those be handled for the railway company, would they pick them up on their way train?
A. Yes, sir, on train No. 34; that is unless, as I stated on my direct testimony, that we had a special train.
Q. Well, you do have special trains up there?
A. Yes, sir you bet we do.
Q. You mean by that, a train that has been sent up for the purpose of picking up live stock, do you?
A. Yes, sir, that is what I mean.
Q. And that is a pretty common occurrence, isn't it?
A. In the winter-time it is I will say, yes.
Q. Well, you said you were prepared to wager, I think that
1645 was the expression, that you did? And you mean by that, you had a good many of them in the course of the year?
A. I say, in the winter-time those trains are frequent. In the summer time they are very infrequent.
Q. When do you ship most of your cattle?
A. In the winter, during the spring, during the early spring season.
Q. Don't you ship most of them, a large portion of them during the fall and winter there?
A. No, sir.
Q. What?
A. Our heavy feeding is done in the winter time in that territory.
Q. They still have this way train in the winter time, don't they?
A. Yes, sir, that is a regular train, and runs the year around.
Q. That is a train sufficient to accommodate the stock that is handled at that station in the heavy shipping time, is it?
A. Why, they make it so.
Q. But in the winter time when they don't ship much, you can have all the special trains you want, is that it?
A. No, sir, I didn't say that.
Q. Well, you have them, that is when they are a frequent occurrence?
A. I said in the winter time, we had special trains frequently.

Q. But that is the time you say you are not doing any shipping, didn't you so state?

A. What I mean by that is, the latter part of the winter and early spring. We call it winter. We commence our shipping there
1646 in the latter part of February, and it continues up until May.

Q. Well, that is the time that you get the special trains?

A. Yes sir.

Q. That is what I wanted to know. Now, those special trains, are they sent solely to Ida Grove, or do they go to other points along there beyond?

A. That depends on what there is West. If there is traffic West, they go on as far as there is anything to load, and get it and come back.

Q. They pick up whatever may be at other points?

A. Yes sir.

Q. And then come back to Ida Grove?

A. Yes sir, and take our stuff.

Q. Take your stuff and go on?

A. Yes sir.

Q. They don't take anything else do they, those special trains.

A. No sir.

Q. How frequent an occurrence would it be to have a special train sent up there at that time, in the heavy shipping season.

A. Why usually on Saturday, we have special trains.

Q. That is so as to get the stock in to the Monday market, isn't it?

A. Yes sir.

Q. And you load your cars in order to reach that market about when the special train comes, you would load of course, so as to reach that train?

A. Yes sir, we aimed it to load so as to leave Ida Grove about eight o'clock.

1647 Q. I understood you to say you had a load at ten in the evening, sometimes two in the morning?

A. That is on the regular train, on No. 34, we load whenever she comes.

Q. You would load also as to the special whenever that came, wouldn't you?

A. Well, the agent usually asked us when we wanted to load, when we had a train of that kind, and he wires the Superintendent and the engine is sent there.

Q. They try to fix it for you, so that you can load?

A. Why, as a rule, yes. Sometimes we have to wait.

Q. Now, those cars are taken down to Carroll and there consolidated into a regular through stock train, isn't that so?

A. Usually so.

Q. How far is the run down to Carroll?

A. Forty miles, I think, 40 or 42.

Q. Are there other points between Ida Grove and Carroll, other stations where stock is shipped?

A. A number of them, yes sir.

Q. This train, whatever train it is, way train or special train, will have stock to pick up at those stations, will it not?
A. Yes sir.
Q. It lays up at those stations while the stock is being loaded and put in to the train, doesn't it?
A. If the stock isn't already loaded, yes sir.
Q. That takes some time, doesn't it?
A. Yes sir. If there is only a load or two going from those
1648 stations, they are usually loaded and ready on the side track.
Q. Suppose there are a number of loads going?
A. Then they have to use the engine as I said, to set the cars.
Q. In that case, they have got to set the cars in and load the stock in each car?
A. Yes sir.
Q. And that takes some time, makes the time between Ida Grove and Carroll, take some time, doesn't it?
A. Yes sir.
Q. Now, at Carroll do you have to lie up there?
A. Yes sir, quite frequently.
Q. They have to make up a train there, don't they?
A. Yes sir.
Q. That takes some time too?
A. Yes sir.
Q. Then from Carroll on after that train is made up it comes through to Chicago without many stops, doesn't it?
A. If you have a special stock train from Carroll, it does, if not, it doesn't.
Q. What do you mean by a special stock train from Carroll?
A. That is a train that carries nothing but stock.
Q. Well, don't they consolidate the stock that they receive over your branch into special stock trains at Carroll?
A. Not always.
Q. Don't they generally do so?
A. They do if they have stock enough to make the train.
1649 Q. When they do, they bring that train through without many stops between there and Chicago, when they get once started, don't they?
A. Well, as a rule, I would say yes.
Q. Do you feed on the way coming in?
A. Sometimes I feed at Clinton.
Q. How much time does that take?
A. Well, we usually aim to lie there four to six hours.
Q. So that is part of the time that is taken between Carroll and Chicago on your run, isn't it?
A. If we feed, yes sir.
Q. You say you usually do feed at Clinton?
A. Occasionally, I said.
Q. I understood you to say you usually do. Other stock men feed there?
A. I didn't intend to say so, if I did, I should have said occasionally.

Q. But other men may have stock in the same trains that they want to feed at Clinton?

A. Yes sir, and if they do, we go on.

Q. In that case, what do they do with the train, hold it there?

A. They switch out the stock for the men that want to feed there, and run the rest of them down to the yards, and there they are put into another train.

Q. They make up a train and carry it on?

A. Yes sir.

Q. If you want to go through, and if there are other men that want to feed, they are left there and you go right through?

A. Yes sir, that is the way it is done.

1650 Q. They don't delay you then on account of the feeding of the other fellow?

A. No sir.

Q. Now, you come through, as I understand you, with your stock generally?

A. Usually, yes sir, I nearly always do, that is with cattle.

Q. Where do they land you here at Chicago?

A. At the chutes at the stock yards.

Q. You go down with the train to the stock yards?

A. Yes sir.

Q. Do they take the caboose down there?

A. Yes sir.

Q. And all the stock men in the caboose, they give them that transportation too?

A. Yes sir, if you see fit to stay in you can ride right to the chutes.

Q. Most of them go, don't they?

A. Yes sir. Some of them get out and take what is called the Elevated and go down town.

Q. You get return transportation on your stock shipments as a rule, don't you?

A. If I have two loads, yes sir.

Q. How many loads do you generally have?

A. I generally aim to ship two loads or more.

Q. Two or more?

A. Yes sir.

Q. Now, what time does this train usually leave Carroll, your stock train?

A. Well, of course, the time varies in that respect.

Q. If you have a special train, there isn't any fixed time,

1651 is there?

A. If we go on what is called No. 62, that is the train out of Omaha, why, I think that is about 2:30, along there, possibly, that is if they are on time, I think they are due at Carroll about 2:30 in the morning.

Q. Well, that would be 2:30 then, Sunday morning, is that your idea?

A. Yes sir, if we go on No. 62.

Q. Yes, but suppose you take a special, you make up a special train there?

A. If you make a special, that all depends on how long it takes to make up the train and how soon you get out. The time will vary from two to five in the morning. I have left there as late as five in the morning.

Q. Well, when do you get to Clinton then?

A. We get to Clinton, well, usually about seven in the evening, six or seven in the evening.

Q. How long do you lay there usually?

A. Just long enough to go over the train and give it the necessary looking after, that is necessary at this point, say half an hour.

Q. Well, suppose you want to feed, you lay there four to six hours?

A. If I get in Clinton that late, I wouldn't feed at all.

Q. Now, would you do that if you were violating the law to go on to Chicago without feeding?

A. I would have to stop to feed.

1652 Q. Well, if you did——

A. That is, if the railroad people said so.

Q. Do they determine whether you feed or not?

A. Yes sir, that is, they do in the case of the law.

Q. They do tell you to get out and feed?

A. Yes sir, you bet they do. They will tell you you have to stop here, they can't run you on to Chicago because it will violate the law, and they will set you out here whether you want to be set there or not.

Q. I see. And when you are set out, that takes four to six hours.

A. Not necessarily so.

Q. How long?

A. You can unload and water your stock and reload and go right on the next train, if you see fit.

Q. You don't give them any chance to rest then. The law requires that as well as feeding and water.

A. Well, I could not say in relation to that because I never got in one of those conditions. When I stop to feed, I stopped of my own accord, so I don't know.

Q. Then you would stay four to six hours, as you said?

A. Yes sir. If I couldn't stay that long, I wouldn't stop to feed at all.

Q. When you get the cattle fed and watered and staid that length of time, then what do they do with them?

A. We load them up and they made them up into a train and sent them out, if they had a train there at the stock yards,

1653 they made up the train right there, and if not, they sent them down to the yards down town where they did make up trains.

Q. They made up a train just as quick as they could and got them out on the road, did they?

A. Apparently so, yes sir.

Q. Now, you would arrive at Chicago at all kinds of hours, wouldn't you?

A. Yes sir.

Q. No regular time?
A. No sir.
Q. Anywhere between midnight and five o'clock in the morning?
A. Yes, and nine o'clock in the forenoon, sometimes later.
Q. Then you wouldn't get the market?
A. Sometimes.
Q. That does happen occasionally, does it?
A. I have been here when I thought I didn't get the market.
Mr. DAWES: You waited until the next day before you determined, didn't you?
A. Occasionally, yes sir.
Q. And you found the market the next day——
A. (No answer.)

Mr. LYNDE:

Q. Well, after you left Clinton, for instance, in the evening, coming on to Chicago, you would take the caboose, wouldn't you?
A. Take a sleeper, what they call a stockmen's sleeper.
1654 Q. Well, you would go to sleep in it, wouldn't you?
A. Yes sir, usually.
Q. What did they give you, blankets, and bedding and that sort of thing?
A. Such as they have, yes sir.
Q. What did you do, get out and look after the stock at different points between Clinton and Chicago?
A. No sir.
Q. Did you watch the running of the train between that time—you would go to sleep, wouldn't you, turn in?
A. Certainly I did. I would be very foolish if I didn't after being up one night on the road.
Q. I think so myself; but you don't know of your own knowledge and never have known as to what occurred in the running of that train between Chicago and Clinton except that you got here at some hour in the morning?
A. No sir.
Q. That's all.
A. I know one thing, if I woke up in the morning and found I was late, I asked the conductor and he usually had an excuse.

Mr. DAWES:

Q. You don't look after the stock at all?
A. No sir, not between Clinton and Chicago.
Q. Does any stock man in your experience look after the stock when they are on the road?
A. Not between Clinton and Chicago.
Q. Or any place where he is out over night?
1655 A. Yes sir, I will say when we don't have the sleepers, we do.
Q. Yes, but where you have the sleepers, you go to sleep and let the stock shift for itself, or let the trainmen look after it?
A. We do that ourselves.

Q. What do you come in for?
A. We never have our sleepers out there.
Q. One minute, what do you come in for?
A. To see the stock sold.
Q. I understood you got off on the elevated and went down town?
A. No sir.
Q. Well, many of the stock men do?
A. No sir.
Q. Didn't you testify some of them went in on the elevated? And some went down on the caboose to the stock yards?
A. I have known some cases.
Q. Didn't you say that was customary?
A. No sir, I said some of them did.
Q. Some of them did?
A. Yes sir.
Q. Did such men as that have an opportunity to look after the cattle?
A. Yes sir, they would go down the next morning, to the yards.
Q. After they are sold?
A. No sir.
Mr. LYNDE: Just one more question as to the speed at which your train ran between Clinton and Chicago, as to what trains
1656 passed it, or what trains it passes, you don't know anything about that at all?
A. No sir.
Q. That is all.
A. The only way I have of figuring the speed, is the time it takes to run from Clinton to Chicago.
Q. You don't know what stops are made in that run?
A. No sir.
Q. Or where?
A. No sir.

Examination by Mr. SEVERANCE:

Q. What is your rate to Chicago?
A. 23½ cents.
Q. What is the actual rate you pay, you say you underbill your stock, what is the actual amount you pay?
A. We pay on just what we have.
Q. You say you pay on 22,000 to 24,000 pounds when you ship 24,000 to 26,000 pounds?
A. Yes sir.
Q. Now, what is the actual amount you pay then, per hundred weight?
A. That stock is weighed at the Northwestern weighing station.
Q. That is not my question, I am not asking where they are weighed or who weighed them. You said you underbill your weights some way, or under pay.

Mr. COWAN: I object.
The COURT: You ask your question and then give him a chance to answer it. Repeat your question.

1657 Mr. SEVERANCE: It is my intention to do that. I want to put a question he will understand.

The COURT: Yes, you put the question and then let him answer.

Mr. SEVERANCE:

Q. Now, as my question is, if you have stock that weighs 26,000 and pay on 24,000 pounds——

Mr. COWAN: He still doesn't give an opportunity to answer.

The COURT: Repeat your question.

Mr. COWAN: He didn't say he underbilled.

The COURT: He is endeavoring to repeat the question. Now, repeat your question, complete your question.

Mr. SEVERANCE:

Q. If your stock weigh 24,000 to 26,000 pounds, and you pay on 22,000 to 24,000 pounds——

A. Yes sir.

Q. I say, what is the actual rate then to Chicago on the stock that you ship, what do you actually pay per hundred weight?

A. 23½ cents per hundred.

Q. Will you explain how you do that, sir?

A. Yes sir, in shipping that stock from Ida Grove to Chicago, it shrinks the difference between the weight at Ida Grove and the weight at the time it is weighed here over the Northwestern scales.

Q. It shrinks 2,000 pounds?

A. Yes sir, whatever the shrinkage is, I wouldn't say it shrinks 2,000 pounds.

1658 Q. And they charge you on the weight at the terminus?

A. They charge me on the weight—where the car is weighed, the loaded stock is weighed here on their weighing scales in Chicago.

Mr. LYNDE:

Q. At the Chicago end instead of the other end?

A. Yes sir.

Q. So you get the benefit so far as the decrease in weight is concerned, in the amount you pay?

A. Yes sir, I don't pay on what the stock is weighed in at.

Mr. SEVERANCE:

Q. You pay on what it weighs after it shrinks 2,000 pounds coming to Chicago?

A. On whatever the shrinkage is.

Q. Didn't you say it shrunk from 26,000 to 24,000 pounds?

A. I should say 1500 to 2,000 pounds on a car would be a reasonable estimate.

Q. Do you ever ship to Sioux City or Omaha?

A. No sir, I have shipped from there, but never to there.

Mr. LYNDE:

Q. How are shipments generally at Ida Grove, towards Chicago?
A. Mostly all to Chicago, practically.
Q. How far is Ida Grove from Omaha?
A. One hundred miles, and 80 miles from Sioux City.

An adjournment was here taken until Monday, October 2, 1905, at 10 o'clock a. m.

1659 MONDAY, *October* 2, 1905—10 o'clock a. m.

Court met pursuant to adjournment.
Counsel present same as before.

Mr. BAXTER: In addition to the extracts heretofore introduced from Appendix G-16, the Annual Report of the Interstate Commerce Commission entitled "Forty Years' Review of Changes in Freight tariffs," I desire on behalf of the defendants to offer the following extracts from the same publication which I overlooked at the time. Page 20, Table, IX, "Changes in the Minimum Carload rates on the articles shown in carloads from April 1st, 1887 to April 1st, 1902."

Page 20, Table X, "Changes in Minimum carload weights on the articles shown in carloads from April 1st, 1887 to April 1st, 1902." That is from the same publication.

Mr. COWAN: Mr. Ripley was coming back this morning but he does not seem to be here.

1659a TABLE IX.—*Changes in the Minimum Carload Weights on the Articles Shown, in Carloads, from April 1, 1887, to April 1, 1902.*

[Applies to Tables 67 and 69.]

Western Classification.

Date of changes.	Wheat.	Rye.	Barley.	Corn and oats.	Flour.	Cattle.	Hogs.		Sheep.	
							Single deck.	Double deck.	Single deck.	Double deck.
1887—Apr. 1	20,000	20,000	20,000	20,000	20,000	(*)	(*)	(*)	(*)	(*)
1888—Oct. 1	20,000	20,000	20,000	20,000	20,000	(†)	(†)	(†)	(†)	(†)
Oct. 25	20,000	20,000	20,000	20,000	20,000	20,000	‡15,000	‡22,000	‡12,000	‡22,000
1889—Aug. 1	20,000	20,000	20,000	20,000	20,000	19,000	‡15,000	‡19,000	‡10,000	‡19,000
1895—Jan. 1	24,000	24,000	24,000	24,000	24,000	19,000	‡15,000	‡19,000	‡10,000	‡19,000
1899—July 1	30,000	30,000	30,000	30,000	30,000	19,000	‡15,000	‡19,000	‡10,000	‡19,000
1901—Apr. 6	30,000	30,000	30,000	30,000	24,000	19,000	‡15,000	‡19,000	‡10,000	‡19,000
1902—Mar. 1	30,000	30,000	30,000	30,000	30,000	19,000	‡15,000	‡19,000	‡10,000	‡19,000
Apr. 1	30,000	30,000	30,000	30,000	30,000	19,000	‡15,000	‡19,000	‡10,000	‡19,000

* Rates apply to cars not less than 29 feet but not to exceed 30 feet 6 inches in length, inside measurement, the minimum weights in larger cars being proportionately greater.

† Rates apply to cars 34 feet in length, inside measurement, the minimum weight in larger cars being proportionately greater.

‡ Minimum weights apply to cars 31 feet and under in length, inside measurement, the minimum weight in larger cars being proportionately greater.

Classes.

1887—Apr. 1. All classes, 20,000 pounds.
1895—Jan. 1. Third class and higher, 20,000 pounds; lower than third class, 24,000 pounds.
1899—July 1. Third class and higher, 20,000 pounds; lower than third class, 30,000 pounds.
1902—Apr. 1. Third class and higher, 20,000 pounds; lower than third class, 30,000 pounds.

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TABLE X.—*Changes in the Minimum Carload Weights on the Articles Shown, in Carloads, from April 1, 1887, to April 1, 1902.*

[Applies to Table 68.]

Western Classification.

Date of changes.	Hogs.		Packing-house products.	Wheat.	Other grain.
	Single deck.	Double deck.			
1887—Apr. 1	(*)	(*)	20,000	20,000	20,000
1888—Oct. 1	(†)	(†)	20,000	20,000	20,000
Oct. 25	15,000	22,000	(‡)	20,000	20,000
1889—Aug. 1	15,000	19,000	20,000	20,000	20,000
1895—Jan. 1	15,000	19,000	20,000	24,000	24,000
1899—July 1	15,000	19,000	20,000	30,000	30,000
1900—Aug. 1	15,000	19,000	26,000	30,000	30,000
1902—Apr. 1	15,000	19,000	26,000	30,000	30,000

* Rates apply to cars not less than 29 feet but not to exceed 30 feet 6 inches in length, inside measurement.

† Rates apply to cars 34 feet in length, inside measurement.

‡ Minimum weights apply to cars 31 feet and under in length, inside measurement, the minimum weights in larger cars being proportionately greater.

B. S. CUSEY, called as a witness on behalf of the complainant in rebuttal, having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. Where do you reside?
A. Chicago.
1660 Q. What is your business?
A. Traffic Manager for Swarzschild & Sulzberger.
(The witness was at this time properly sworn.)
Q. The questions you have answered are correct, are they?
A. They are.
Q. Or rather the answers are correct?
A. Yes sir.
Q. As such Traffic Manager, what are your duties, and what business services do you render?
A. My duties are to look after the movement of our traffic in general, that is the movement of live stock and dressed beef and provisions, the movement of the cars both loaded and empty. I have charge of the checking up of rates to see that they are correct, and also the question of checking icing charges and other matters in general pertaining to the business.
Q. From your position, do you learn the movement of traffic and its direction and volume of it?
A. Yes sir.
Q. Where has your firm packing establishments?
A. Kansas City, Chicago and New York City.
Q. What is the extent of the business in point of its volume?
A. From Kansas City our business in dressed beef amounts to approximately 450 cars per month destined east of the Mississippi river. From Chicago about the same number destined to
1661 points east of Buffalo and as to New York, I could not state.
Q. I believe I did not understand the number of cars from your Chicago place destined east?
A. About 450 cars per month of dressed meats each.
Q. That is from each place?
A. Yes sir.
Q. A total of about 900 cars per month?
A. Yes, as to dressed meats. Then as to provisions about 250 cars per month from Kansas City and possibly 300 from Chicago.

Mr. DAWES:

Q. What do you mean, packing-house products?
A. Packing-house products, yes sir.

Mr. COWAN:

Q. How many are there from Chicago?
A. I should say 300 cars.
Q. Take a trainload of cattle of the average sort in weight, what is the relative proportion of dressed meat to the provisions produced?
Mr. DAWES: Dressed meat?

Mr. SEVERANCE: I object to that on the ground that it is not rebuttal.

The COURT: I don't understand the question.

(Question read.)

Mr. DAWES: Neither do I.

1662 The COURT: What do you mean, do you understand the question?

A. I think I do.

Mr. SEVERANCE: Let the rest of us understand it.

Mr. COWAN: A trainload of cattle will produce so much meat and so much provisions and I want to know the relative amount.

Mr. SEVERANCE: The objection is overruled, your Honor?

The COURT: Yes.

A. It will be approximately 55 per cent. of fresh meat. That is 55 per cent., the live stock will dress out—it will produce about 55 per cent. in dressed beef and provisions approximately 20 per cent. I am not posted thoroughly on those statements, it is merely an estimate.

Q. By provisions you mean the other products than dressed meat?

A. Yes sir.

The COURT:

Q. You mean in a certain amount of cattle, that 55 per cent. becomes dressed meat and 20 per cent. will be products?

A. Yes, such as oils and fats.

Q. Making 75 per cent.?

A. Yes sir.

Mr. DAWES: I object to the witness further testifying on this subject. He has now disqualified himself by saying that he cannot give any accurate estimate. This is of no value unless it is accurate.

The COURT: He may be more modest than some of the
1663 other witnesses. I will risk it. I think he knows a good deal about his business.

A. In addition to those there are also the weight of the hide which is about 60 pounds to the animal and also the weight of the bones, the hoofs and horns and fertilizer, making out the balance of the 100 per cent.

Mr. COWAN:

Q. Well, do you mean that a trainload of cattle will furnish in products and meats, the weight of the cattle?

A. Not entirely; there is a very slight loss, though.

Q. In what proportion of the product, both meat and the product, what proportion will be meat and what proportion other product in pounds or weight? What I mean by that, what per cent. does the dressed meat bear to the other products?

A. I testified about 55 per cent.

Q. That is 55 per cent to the weight of the animal?

A. Yes sir.

Q. What per cent does the dressed meat bear to the product?

Mr. DAWES: He says 55 per cent. and 20 per cent.

Mr. COWAN: He did not answer that way. He answered 55 per cent. to the gross weight. That is, a steer will dress out 55 per cent. of meat.

A. Yes sir.

1664 Q. Now you get certain freight out of a trainload of cattle that you ship?

A. Yes sir.

Q. Do you know how much of that animal, if it is a thousand pound steer for the sake of even figures,—there would be 550 pounds of dressed meat?

A. Yes sir.

Q. How much other weight will there be in products the hides, you say, will weigh 60 pounds?

A. 60 pounds.

Q. Does the hide weigh that when it is dry?

A. That is the green hide.

Q. Do you ship the green hide?

A. The green hide salted down.

Q. The hide weighs 60 pounds?

A. That is so, yes sir.

Q. What are the other items?

A. The item called packing-house product consists of tallow and oil.

Q. Mr. Cusey, can you make up a statement showing the detail of those items?

A. Yes, I can.

Q. All right, prepare such a statement. Did you prepare such a statement for the Garfield Report?

A. I did not.

Q. Was ever such a statement prepared?

A. Not that I am aware of.

1665 Q. I will ask you to make up a statement, a correct statement in detail showing what the various items are and the proportionate weight of a thousand pound steer, we will take one on the basis of a thousand pound steer for convenience,—you can get that definitely and correctly, can't you.

A. Yes sir.

Q. I will ask you to do and file it and get the same information as to the average hog?

A. Yes sir.

Q. We, will say a thousand pounds of hogs and the average steer, a thousand pounds, and then we will have it per thousand pounds. You look after the shipment of all of this product that is shipped out from Kansas City?

A. Indirectly, through my office.

Q. Through your office?

A. Yes sir.

Q. You have general charge of it?

A. Yes sir.

Q. And you likewise do on the Chicago shipments?

A. Yes sir.

Q. To what points of consumption are the products, including the meat, shipped from Kansas City,—First, I will ask in what direction does the dressed meat move?

A. Principally to points east of the Mississippi river and north of the Ohio river. New England territory and the Middle States.

Q. Do you come in competition with the other packers in
1666 the sale of dressed meats at various points throughout the country, commercial centers?

A. We do.

Q. Has your company established houses at those places?

A. They have.

Q. Does your company own its cars in which the product is shipped?

A. Not all, we own about one thousand cars.

Q. What proportion of the dressed meat put up at Kansas City, moves to Chicago locally at the 20 cent rate and what proporti-n moves as destined east of the Illinois and Indiana state line, on the 18½ cent rate?

Mr. SEVERANCE: Is this something that the witness knows or is he going to guess about it?

The COURT: You had better find that out first.

Mr. COWAN: He has general charge of the traffic and I am assuming that he does know. If he don't know, I don't suppose he will answer, but I will ask him the question anyway.

Mr. SEVERANCE: He was stopping to think like a man who was making up his mind.

Mr. COWAN: That has not been an infrequent occurrence in the trial.

Q. Do you know what proportion or approximately what proportion?

A. Approximately, yes sir.

Q. State it?

A. About four or five per cent. to Chicago proper and the balance east of Chicago.

Q. Four or five per cent?

A. Yes sir.

1667 Q. Is there any reason in the commercial situation of the market for dressed meat at Chicago that would cause the movement of any considerable amount of dressed meats from Missouri river points to Chicago for sale, locally, that would move on the 20 cent rate?

A. That depends upon the price of cattle at Chicago and also at Kansas City. When they can be purchased at Kansas City to advantage, we buy and ship from there. Otherwise we supply our Chicago demand from here.

Q. Then that part of the dressed meat which moves from Kansas City locally on the 20 cent rate for sale at Chicago, is that which is bought to an advantage over the Chicago market, there?

A. As a rule, yes sir.

Q. The Chicago kills are very much more than the local supply here, are they not?

A. Yes sir.

Q. Now, of the packing-house products under the head of "provisions," what proportion of it moves to Chicago on the 20 cent rate for local consumption, sale and distribution at Chicago and what proportion east of the Indiana and Illinois state line on the 18½ cent rate.

A. The percentage is still less. Probably not more than 2 per cent. to Chicago proper.

Mr. DAWES:

Q. Does this include the hog products as well as the beef?

1668 Mr. COWAN: I understand it to do so. I am speaking of the hog as well as the beef supply.

A. Yes sir.

Q. And your answer applied to that?

A. Yes sir, the products as a whole.

Q. What is the total number of cattle which you kill where you have it in your mind now, either per day or per week or per month at Kansas City and the number of hogs that you kill at Kansas City per day or per week or per month as you may have it in mind, or per annum? if you please?

A. At Kansas City in cattle about 4,000 or 4,500 per week.

Q. Per week?

A. Per week.

Q. And of hogs?

A. Hogs, it will average from 7,000 to 10,000 per week.

Q. From 7,000 to 10,000 per week?

A. Yes sir.

Q. Proportionately, do you kill more hogs than the other packers there, that is, in proportion to the number of cattle killed, do you kill more hogs than other packers at Kansas City?

A. I am not in a position to say.

Q. Have you access to information which will enable you to show the total killing at Kansas City of the different packers there in both the cases of hogs and cattle?

A. No sir.

Q. You could only make that statement with respect to

1669 your own?

A. Yes sir.

Q. I wish you would file, prepare and file a correct and definite statement showing the amount of the killings and the amount of your shipments so we will have it exact.

Mr. SEVERANCE: I don't want to fight it now, but he must come back with it so that we can examine him about it. Otherwise, we object to its being filed.

Mr. DAWES: Will you be kind enough to indicate the period?

Mr. COWAN: Why, you can bring it to-morrow.

Mr. DAWES: No, no, the period for which this statement will run.

Mr. COWAN: Any year you please, the year 1904, for example.

Q. What is the amount of the average load, if you know or if you know approximately, of dressed meat per car shipped from Kansas City by your concern?

A. About 21,500 pounds.

Q. How is that dressed meat put in the car?

A. It is hung on hooks from rails at the top of the car.

Q. The cars are provided with rails and hooks to hang it on?

A. Yes sir.

Q. Is any of it hung from the roof?

A. Well, these rails are all just below the roof of the car, not on the sides.

1670 Q. They are swung across then?

A. Yes sir, lengthwise.

Q. Do you fill the car that is supplied with hooks with all the car will hold?

A. Generally to the full capacity.

Q. Is it possible to load those fresh meat cars much in excess of 21,500 pounds considering the manner in which they are loaded, unless you fill it up with packing-house products on the bottom of the car?

A. That depends, of course, on the size of the car. We have some equipments 34 feet long and some 38 feet long. The 38 feet cars will hold as much as 24,000 pounds of straight dressed beef alone.

Q. Straight dressed beef?

A. Yes sir.

Q. How much will the 34 foot cars hold of straight dressed beef?

A. Pretty close to the minimum, 20,000 pounds.

Q. What is the minimum carload weight if you know of the 34 foot car and the 38 foot car as shown by the tariffs?

A. There is no difference in dressed beef, the minimum is 20,000 pounds on all.

Q. In other words, you can ship 20,000 pounds and you pay for 20,000?

A. Yes, sir.

Q. If you ship less, you pay on 20,000?

A. Yes sir.

Q. If you ship more, you pay in proportion to the excess?

1671 A. For the actual weight.

Q. Now how is the weight arrived at in practical operation?

A. The weight of the beef?

Q. Yes, on which you pay the freight. You go to the railroad and pay your freight bill? By what method do you arrive at the weight that you have shipped in the cars that you pay the freight on?

A. The beef is hung on rails, and they run across a scale where each carcass is weighed. In that way, it is taken down on a tally-sheet. That rate is subject to inspection by the Western Railway Weighting Association. That weight is taken from the tally-sheet for the bill of lading. Those records are all checked by the repre-

A. About twice as much beef as provisions.
Mr. DAWES: Beef, you mean?
Mr. COWAN: About twice as much fresh meat as products.
A. Yes, fresh meats.
Q. Now of the hogs that you kill, what proportion is shipped as fresh meat and what proportion is bacon and hams and in that form.
A. Probably not more than 10 per cent. of fresh products.
Q. In the hog?
A. In the hog.
Q. The balance is shipped as product?
A. Cured products, yes.
Q. Do you ship the products of the hogs aside from fresh meat, in the refrigerator cars?
A. Not at all times.
Q. Generally, how is it?
A. When we have enough equipment, we, of course, use
1676 our own cars. Otherwise, it is in foreign equipment. As a rule it is shipped in foreign cars.
Q. Do you have any contract agreement or arrangement with the railroads whereby you have a right to load your own equipment wherefor you can get it with the bacon and hams?
A. No sir, there is no such contract.
Q. Is there such a custom?
A. A custom, yes sir.
Q. Wherever you have the equipment you load it?
A. Yes sir.
Q. Why do you do that?
A. Because, as a rule our cars are better than the cars of foreign lines. They are kept in better shape.
Q. What do you receive as compensation for the use of your cars?
A. In Western territory we receive one cent per mile, mileage.
Q. What do you mean by "western territory".
A. The territory between Kansas City and Chicago.
Q. That is one cent per mile each way?
A. Yes sir.
Q. Do you have any rule or custom with respect to the speed and time of returning the live stock—or the refrigerator cars?
A. No sir.
Q. In actual practice how long does it require to get the cars returned in a shipment say, of 10 or 15 cars, which make to Chicago if they were unloaded at Chicago?
1677 A. It will average about four days returning by the direct lines and by the differential lines five and six days and sometimes seven.
Q. Do you distribute your shipments over the various lines of railroad out of Kansas City?
A. As a rule, we confine them to one line as largely as possible.
Q. What lines do you mostly patronize?
A. At the present time we are patronizing the Alton.

Q. Are you acquainted with the refrigerating equipment of other packing concerns besides yours?
A. No sir.
Q. Do you know anything about it?
A. Somewhat, but nothing special about the different features of their cars.
Q. Do you know whether they are built on substantially the same lines?
A. Practically they are.
Q. Where do you have them built?
A. We build some ourselves and other times we have them built by the Car Building Companies.
Q. The St. Louis Car & Foundry Company?
A. The American Car & Foundry Company.
Q. The American Car & Foundry Company?
A. Yes sir.
Q. Do you know whether other lines have cars built there,
1678 to-.

Mr. DAWES: I don't know why we should go into the question of where those cars are made, your Honor.

Mr. COWAN:

Q. In actual practice, in shipping dressed meat and packing-house product, you do load both in the same car?
A. Do we?
Q. Yes.
A. Often times.
Q. Now how is the car designated then? when you have in it fresh meat, when you have any fresh meat in the car, does that mean a fresh meat car?
A. It is a mixed car of fresh meat and provisions.
Q. You have to ice that the same as a fresh meat car?
A. Yes sir.
Q. What will the packing-house products when they are shipped alone amount to in actual weight per car?
A. They will average 30,000 pounds per car.
Q. That is, when there is no fresh meat, when it is a packing-house product car?
A. When it is a packing-house product car.
Q. What is the minimum carload?
A. In Western territory it is 26,000 pounds.
Q. You can ship 26,000 pounds, if you please?
A. Yes sir.
Q. If you ship less you pay for 26,000?
A. Yes sir.
1679 Q. And if you ship more you pay on the excess?
A. Yes sir.
Q. Are those refrigerator cars loaded on their return movement?
A. Sometimes, but as a rule they are not, for the reason that there is a load awaiting their return at all times.

Q. Of your refrigerator cars which are returned to you at Kansas City, what per cent. of the total are returned loaded?

A. Not more than four or five per cent.

Q. Now is your concern engaged also in the shipping of live stock?

A. To a certain extent, they are.

Q. Do you have your own cars for that?

A. We have some equipment but not enough to handle all of our business.

Q. How much equipment have you?

A. 400 cars.

Q. How many?

A. 400.

Q. What are the size, capacity and weights of those cars?

A. They are 36 feet long, and the weight is about 28,000 or 29,000 pounds.

Q. What is the capacity, do you recollect?

A. The capacity is, they have a marked capacity of 40,000 pounds but, of course, not more than 22,000 or 23,000 at the outside can be loaded in them.

Q. On what arrangement do you ship your live stock in the live stock cars which your company owns, do you get mileage?

1680 A. Yes sir.

Q. How much?

A. Six tenths of a cent per mile.

Q. Do you have charge of the matter of the collection of claims for damage for injury to the freight by various methods in which it might be injured in transit?

A. Yes sir.

Q. Are you able to state the amount of loss and damage collected, averaged per car on dressed meats and packing-house products, the total out-put of your business, say, from Kansas City?

Mr. DAWES: I object to that. There has been no evidence here showing that they shipped over any other line than the Alton road, that is, in any quantity, and whatever his testimony might be in this regard could not tend in any way to rebut or refute any evidence as to the amount of damage presented, claimed and paid on the part of the other railroads. Suppose it should appear that Swarzschild & Sulzberger had a very high claim average or a very low one, it would seem to me that it would have no bearing in enabling your Honor to determine the general amount of claims which the railroads pay on this business.

The COURT: Is the Alton Road a defendant here?

Mr. COWAN: Yes sir.

Mr. DAWES: But there has been no testimony on their part.

Mr. COWAN: The question is, what is the risk incident to the business. This is evidence that tends to show that. Whatever

1681 the comparative risk is incident to the business can only be proved by testimony showing what it covers for a period of a year or two years, in the actual amounts paid. The risk of the trans-

portation always is reflected or ought to be reflected in the claims that are actually paid. What they don't have to pay is not a matter of risk incurred. What they do have to pay is a matter of risk incurred. The conditions of the traffic between the Missouri river and Chicago must be substantially the same on those different lines. That has been practically shown here. It is a matter of such general knowledge that the Court will take judicial notice that the conditions of traffic must be in a general way substantially the same.

The COURT: Not necessarily. Certain railroads introduce proof here and it is contradicted as to other railroads. It seems to me it is competent for one railroad.

Mr. COWAN: I desire to ask the witness one other question before Mr. Dawes's objection is passed upon.

The COURT: Mr. Dawes objection is so far as his road is concerned.

1682 Mr. COWAN:

Q. What other roads do you ship over besides the Alton?

A. Practically all, but at the present time the greater part of our traffic is confined to the C. & A. road.

Q. How has it been hertofore?

A. It varies. At one time we will be using one line and at another time another.

Q. What different lines have you used?

A. Used the Wabash, the Rock Island, the Great Western, the Santa Fe, the Burlington, and in fact all of them.

Mr. LYNDE: Name them, please, don't say "all of them".

Mr. COWAN:

Q. The Milwaukee & St. Paul?

A. Yes, sir.

Mr. SEVERANCE: May I make a suggestion? It is this: The only testimony that has been introduced by the defendants with reference to damages is along this line; every witness who has been questioned has said that he would be unable to state whether, by reason of accidents and wrecks, there would be any more damage to one class of products than another. Every one who has been examined on that question has said that. There has been no claim asserted by the defendants that live stock is more liable to be damaged, but there is evidence offered on behalf of, I think, all of the defendant roads whose officials have testified, that claims have been paid on account of delays in the arrival of live stock at destination, and that no such claims have been paid in the case of dressed meats. Now, I

1683 submit, your Honor, that we are trying a question of comparisons here. There is one feature in which the defendant roads have asserted there is a difference. Now, if this gentleman can testify that any of the roads whose officials have testified on this very question, have paid such claims it is competent, because—damages because of the delay in the arriving of packing house products, that is competent as contradicting that other testimony, but as to whether they have paid damages because of wrecks, or anything

of that kind, that is certainly incompetent, because a wreck is an accident, and it might happen to one class or the other class of products. If a train goes into the ditch it might destroy product or live animals. The testimony should be confined to contradicting that which is asserted here by the defendants, but this question is not limited, I object to it as immaterial and incompetent.

Mr. COWAN: This is the first time, I believe, that I have ever heard that because the witnesses of one side testify to a particular state of facts, that therefore, the other is excluded from proving the contrary of those facts.

Mr. SEVERANCE: But you are on rebuttal now.

Mr. COWAN: Just a moment, I am addressing the Court. They claim that the liability to wrecks is the same in each case. The proposition urged by counsel would be that that would ex-
1684 clude our proving that that was not the fact. The point at issue is, what is the risk incident to the business, both classes of business are risky. Both classes of business involve an expenditure because of the fact that that is perishable freight. That is reflected in what is paid for it. Nobody has testified as to the relative amount of damage produced by wrecks. They have said that in case of wrecks the damage is about as much to the one as to the other. At least, they have assumed that it was so. Each of them say that they have not estimated what it is, and don't know what it is, and they do not. A wreck might produce a very fatal result in the case of cattle, or not any, and so, if it was a wreck of dressed meat, it might be very injurious, and might not be, depending upon the character of the wreck, but I say that the risk is reflected in what is paid for the damages, what the average of that is per car, ought to be reflected in the rate of freight on each. Nothing else ought to be reflected. It does not matter what the character of the claim for damages is, whether it is for missing the market or whether it is for wrecks, whether by delay or otherwise.

The COURT: His point is that this is rebuttal testimony, and should be limited by the ordinary rules applicable to rebuttal testimony.

1685 Mr. COWAN: There have been a great many objections here, on the ground that it was not proper rebuttal. I undertake to say that the Supreme Court of the United States has laid down the rule, and I undertake to say that it is the rule in every work on evidence now extant and in use in this country where there are courts of liberal procedure, that you make your *prima facie* case. You can support it by any testimony in rebuttal that will support your *prima facie* case, and I can produce decision after decision on that subject. The idea of its not being proper rebuttal. Any testimony that supports your case is admissible in rebuttal, and that is within the discretion of the Court. The courts are becoming more liberal on that question every day. I can produce decision after decision on the subject. All we have to do is to make a *prima facie* case. They start in then and rebut that case. Any testimony that will suppose our original case is proper on rebuttal and always admissible at the discretion of the Court, and ought

to be. Now, then, I propose to show by this witness that he has had experience, not merely with the Alton but with the other roads, and prove by him what is the normal risk as shown by the claims that they actually pay per car load on the shipments of this freight.

Not a gentleman has produced his actual statistics on the
1686 stand here as to how much was paid on dressed meat and packing house products. Nobody has produced that; I don't recall a single witness that has produced the actual amount. Some have said it was $5,000. Mr. Gardner said it was about 85 cents per car, but here is a witness who is handling the whole output of one concern, and it seems to me that if the Court desires the information as to what is the normal risk, here is a witness who can give it, with respect to each one of the roads covering a period of years.

The COURT: Well, now, what is the question, let us hear that.

(The pending question was then read.)

The COURT: For what period?

Mr. COWAN:

Q. In answering that question, state your experience going back for a period of four or five years, so as to fairly represent what the risk is as reflected in the payments made over the various lines of road over which you have shipped?

Mr. LYNDE: I object to that question in that form, anyway.

Mr. COWAN: Whether for delay or for risks.

Mr. DAWES: I do not wish to take up any more of your Honor's time, if your Honor is with me, but there are certain suggestion that occur to me, which ought to have force and potency
1687 with reference to this particular inquiry. Without stating against what I believe to be the rule of evidence, that rebuttal testimony is rebuttal testimony, and that, having made a *prima facie* case, if my friend chooses to omit certain testimony which should have gone in then, he is only in the sound and legal discretion of the Court, permitted to show it afterwards.

Our great difficulty in the trial of these causes has been that in hearings before the Interstate Commerce Commission we have been compelled to meet testimony of all kinds and character, hearsay testimony, and testimony not admissible under any rules of evidence, and oftentimes the predeliction or predisposition of the Court itself which we were not able to meet, and we have come in here for our day in court, and we rely upon your Honor with confidence, that the orginary rules of procedure, sanctioned by ages, shall be applied to us here in this court, and that we shall not ramble all over the country in the discussion of this question. We should not be forced to try our case for the benefit of the government nor for the benefit of the counsel who represents the Interstate Commerce Commission. If he stands here and puts in his case, let him put it in as he would have to do in every court, whether in Texas or here. If we come in and meet his case and make
1688 our defense, and if in that defense we introduce evidence competent at the time, but which was not in the original case,

that alone must he meet. Now, there has been testimony here in reference to claims in figures, which says that the damage per car, stock car and dressed meat car, is so and so, but the Chicago & Alton road was not mentioned. Is he going to undertake to meet that or disprove those claims, will he call these gentlemen, every man who has done a considerable amount of the business on these roads to refute that and rebut that evidence by such testimony? If so, I admit its competency. That is, if he will go over the whole subject, and if he will disprove our statement in any way known to the rules of evidence. But how does it meet the testimony of Mr. Gardner in any way when this witness is ask-, How much have you paid on an average per car for dressed beef and live stock? Does it in any way rebut the testimony that Mr. Gardner's road has actually paid 80 cents or thereabouts per car? It seems to me that it in no respect is rebuttal.

The COURT: The trouble about your question is that it is rather indefinite. You could not tell what railroad the answer would apply to.

Mr. COWAN: I asked him the railroads he shipped over, and he has already named the railroads.

The COURT: You did not say that.

1689 Mr. COWAN: He has named the C. B. & Q., he named the Chicago Great Western, he named the Atchison, Topeka & Santa Fe, he named the Milwaukee & St. Paul. The Northwestern does not go to Kansas City and of course it does not apply to that.

The COURT: What is this, sort of a lump sum that you are asking for? Is it over the different roads that you are asking? You are asking for a lump sum?

Mr. COWAN: Yes, sir.

Mr. SEVERANCE: He is asking for an average.

The COURT: I will sustain the objection.

Mr. COWAN: Then I will ask you to answer the question with respect to each of the roads.

The COURT: Ask one question at a time. You started out with the Alton road.

The WITNESS: I will have to be given further time for each road.

Mr. COWAN:

Q. How is that?

A. I will have to be given further time to answer for each road.

Mr. DAWES: We desire to make the same objection as to each road, and as to the Alton particularly.

The COURT: Have you data from which you can answer that question?

1690 The WITNESS: I have for the last three years over all lines.

The COURT: Then answer; give your best answer.

A. That average is about $2.50 per car via all lines.

Mr. COWAN:

Q. How much live stock shipments have you made?
A. That is, in western territory?
Q. Yes, from Kansas City to Chicago, and from Omaha to Chicago?
A. An average of 1,000 cars a year from Missouri river territory, that is, Kansas City, Omaha and Sioux City.
Q. How is that?
A. Sioux City.
Q. About how many?
A. About 1,000 cars per year.
Q. What have been the claims for damages collected on the live stock shipments to Chicago during that time over the lines reaching from this point to Kansas City?

Mr. SEVERANCE: I desire to reserve an objection to that, unless it is limited to claims for delays.
The COURT: Objection overruled.

Mr. LYNDE: I would like to have that question read.
The COURT: It does not apply to your road, anyway.
Mr. LYNDE: It seems to apply to the whole country.

(The question was then read.)

The COURT: Answer the question.
A. I have prepared no statement covering such loss.
1691 Mr. COWAN: Do you know what it amounts to?
A. I should judge it would amount to——

Mr. SEVERANCE: I object to any guessing. This is or should be a matter of definite figures.
The COURT: Let him guess the same as the others, and then prepare your figures afterwards.

A. Probably $1.00 per car.

Mr. SEVERANCE: What is the ruling?
The COURT: The objection is overruled and he is instructed to prepare his statement afterwards.

Mr. COWAN:

Q. Have you the means of furnishing a definite and correct statement with respect to the amount of loss and damage per car, with respect to each one of the railroads on shipments of meat over it, with respect to packing house products and dressed meat, on the one hand, and live stock on the other hand?
A. Yes, sir.
Q. Will you prepare and produce such a statement tomorrow?
A. Yes, sir.

The COURT: Now, you had better make that apply to the different railroads.
Mr. COWAN: All right, I said every road.
Mr. SEVERANCE: I ask that the witness be instructed to note upon

the statement the number of cars of each class of commodity
1692 shipped. He has testified offhand here to a dollar or car, or something like that, and no number of cars is given which that is to cover, or as to which class of product, or as to whether it is the live stock, so we can see how it checks up with the railroads. I would like to have those things noted. Perhaps we can find out where this settlement was made.

Mr. COWAN: I also request that the statement show what it was for.

Mr. SEVERANCE: Yes, we would like that.

Mr. DAWES: Yes, whether it is legitimate, or otherwise.

Mr. SEVERANCE: Yes, whether it is a legitimate claim or a bogus claim.

Mr. COWAN: You had better be mighty cautious about that, you gentlemen on the other side of that rail.

The COURT: You don't want him to put that down on paper, do you? Wouldn't you rather cross-examine him on that subject?

Mr. SEVERANCE: We want him to have the data with him so that he can give answers that are not guesses.

The COURT: Any more questions, Mr. Cowan?

Mr. COWAN: You have heard the statement with respect to the other matters we asked you to make up.

A. I don't recollect them just now.

Q. Well, statements concerning how much dressed beef and
1693 how much product they actually dressed out in the case of cattle and in the case of hogs.

A. Yes, sir.

Mr. BAXTER:

Q. In making up your statements of the kind called for, with reference to damage to live stock and damages to dressed meat and packing house product, I wish, in addition to your specifying the road against whom you made the claim, that you would state the date and the number of the car, so that we can trace it.

Mr. SEVERANCE: The day the claim was put in.

Mr. BAXTER: Yes; and I want the number of the car, so that we can trace it.

Mr. DAWES: If you will be good enough, state whether it is a claim for delay or a claim for physical injury.

Mr. SEVERANCE: In each case, as to the live stock and the packing house product and dressed meats.

Mr. BAXTER: You were asked in regard to the number of cattle, and so forth, received by your house. I wish you would file a statement showing the total number of cattle, calves and hogs received by your company at each of your packing houses in the years 1901, 1902, 1903 and 1904, and also a statement showing the total number of cattle, calves and hogs slaughtered by your company at each of your packing houses in each of those years.

1694 The WITNESS: That will take some little time,—two or three days,—I will have to hear from Kansas City and New York.

Q. Well, you can bring it in as soon as you get it done?
A. Yes, sir.

Mr. DAWES: I think, your Honor, that if we may be permitted, we will postpone the cross-examination until these statements are in.
The COURT: I think that is better.

E. P. RIPLEY, having been duly sworn, resumed the stand for further Direct Examination by Mr. Cowan, and testified further in rebuttal, as follows:

Q. I forgot whether I had any additional questions to ask of Mr. Ripley or not. He was requested by counsel for defendant to bring with him some statements?
Mr. SEVERANCE: Well, you asked him to bring a statement—I can tell you what you asked for. It is on page 1608 of the record. You asked him to bring a statement to be filed showing the items, not in dollars and cents, unless it is convenient, of expenses that are incident to the handling of packing house products and dressed beef, which are not incident to the handling of live stock, and
1695 also the items of expense incident to the transportation of live stock which are not incident to the packing house product and dressed beef.
Mr. COWAN: Yes; and a comparative statement of the expenses, the cost of the service on shipments received, say, at Carrollton, of live stock and packing house products and dressed meat, and at Missouri River.

Q. Any such explanations as you desire to make to any of the statements made when you were on the stand before, you are at liberty to proceed with, as well as in answer to the requests that have been made.
A. The two questions which have just been read, I either did not understand, or else they did not lodge in my memory, and certainly no memorandum was given me in regard to them. The questions that were asked, which I remembered, and on which I have prepared a statement, was, first, the number of stock yards on our line between here and Kansas City. I have that statement.
Mr. SEVERANCE: Kindly read that into the record, I asked for that.
A. Well, it is a pretty long statement.
Mr. SEVERANCE: Well, give the number and the total value, then, if you have it.
A. On the Illinois Division between here and Fort Madison,
1696 the total value is, $24,300. That is merely for the yards, but adding the tracks and stock scales and everything pertaining to the yards, the total is, $40,560. The number of yards is 55 in Illinois, and 48 in Missouri; the valuation in Missouri is, $59,500. That includes the yards, scales, tracks and everything else.

The COURT:

Q. Do you remember the average?

A. The average is very easily ascertained by those figures, it is a total of about 100 yards and about $100,000, about $1,000 apiece, that is a rough estimate.

Mr. SEVERANCE:

Q. Does that include the cost of the land on which the yards are located?

A. Yes, that includes the entire value. There is no segregation of the value of the land, because it is generally on the right of way.

Q. Are those figures made up from the cost of the yards, or is it an estimate of their present value?

A. The cost of the yards as they stand on our books.

Q. Do they stand on your books with a certain depreciation charged off against them?

A. No, sir.

Q. Just the original cost?

A. Just the original cost. Theoretically they are kept in such repair as to eliminate the idea of depreciation. We have
1697 rebuilt some of them. Some of these have been built for many years, and probably in that time they have been entirely rebuilt.

I was also asked for the amount paid during the fiscal year ending June 30, 1905, in settlement of claims for loss and damage on account of delay to live stock arriving in Chicago. The total of that is, $5,130.97. That, however, embraces more or less delay which took place west of Kansas City. That is the amount paid for delays on cattle arriving in Chicago, but it is not—the most of it applied on the business this side of Kansas City, but some of it did not.

The COURT:

Q. Is that for one month, you say?

A. For one year.

Q. $5,000, that is for a year's delay to live stock?

A. Yes. The number of cars received I think is shown in the stock yards' books, and that was 8,000. That was in the evidence the other day.

The COURT: You gentlemen had better write out the questions you want him to answer.

Mr. SEVERANCE: Those are the only ones I wanted.

The WITNESS: If you will write out the other question, I will see if I can get it.

Mr. COWAN: Yes, I will. Perhaps I can get it in another way.

1698 Mr. SEVERANCE: When we adjourned last night I was asking Mr. Ripley some questions. Could I complete those questions now?

Mr. COWAN: Oh, yes. For the purposes of the record, at present, the exact amount or number of cars was 8,651 cars for the year 1904.

The WITNESS: No, that is the calendar year, while this statement here covers the fiscal year from June 30th to June 30th.

Mr. COWAN: Well, it would be something around that.

Mr. DAWES: Say 80 cents a car would be it, figured roughly.

The WITNESS: Something like that, it is about five-eighths.

Mr. COWAN: It amounts to just about 60 cents.

Mr. DAWES: Well, if you divide that, but Mr. Ripley is not accurate as to the number of cars, because they cover a different period, but estimating it upon the amount paid, and the estimated amount of cars, something about 80 cents a car, is that right?

A. Well, as I recollect it it is $5,130.

Mr. DAWES: And there are about 8,000 cars.

A. About 8,000 cars; about five-eighths—about five-eighths of a dollar per car.

Mr. SEVERANCE: You were asked by Mr. Cowan on re-
1699 direct examination, if you could tell the difference in cost between hauling the same train 18 miles an hour and 20 miles an hour? You said there would be a difference, but it would be impossible for you to state what the difference would be.

A. Yes, sir.

Q. It is a fact, however, is it not, that you cannot haul as great a tonnage 20 miles an hour as you can 18?

A. Not quite. If all of our trains were full, if every locomotive was taxed to its utmost capacity, the difference would be more accentuated between 18 miles an hour and 20 miles an hour than it is under other conditions.

Q. Can you tell, in percentages, the difference in amount of tonnage the same locomotive will haul at 18 miles an hour and 20 miles an hour?

A. I don't think that question could be answered unless you assume similar conditions.

Q. I am assuming that it is hauled over the same line of road at the same speed—I don't mean at the same rate of speed, but I mean over the same line of road.

A. I think a theoretical answer could be given to that question, that is, an answer that would be theoretically correct, but I cannot give it at the moment, but I think it could be done.

Q. Wouldn't it be safe to say that it would be 40 per cent.
1700 difference?

A. No, sir, between 18 and 20 miles?

Q. Between 12 miles and 20?

A. No, I think not.

Q. You testified the other day, Mr. Ripley, that a car of packing house product represented a condensation of three cars of live stock. On reflection, don't you think you want to modify that statement?

A. Possibly I should modify that statement somewhat. I have no expert knowledge on the subject. My judgment as to that was, that, as a rule, at the various packing centers there is about—there is received, from two to three carloads of live stock for every car load of product that is shipped out. Of course, in a center like Kansas City, there is more or less local consumption which takes

care of part of that. Then, there is also more or less live stock shipped out and there is also more or less product shipped west, so that, from that information, it would be hard to judge. I prefer to take expert testimony of people who do packing.

Q. For the purpose of your testimony, do you regard that suggestion as withdrawn?

A. I did not intend in my testimony to be exact about that. I said, somewhere in the neighborhood of from 2 to 2½ cars of live stock were condensed into one carload of manufactured product.

Q. As at present advised, you don't care to give any opin-
1701 ion on that?

A. No, I think I was wrong on that.

Mr. COWAN:

Q. Mr. Ripley, you said that theoretically, to run a train at 20 miles an hour, or 18 miles an hour, there would be a difference. That is, as I understand, on the theoretical full loading of each train?

A. Yes, sir.

Q. But under actual railroad conditions, in this western country, is that theoretical tonnage loading of engines practical or does it happen?

A. It happens as often as we can make it happen. That is something that we are always striving for, and which we attain as nearly as we can. It very often happens that we cannot. That is especially true in the case of both packing house products and live stock, which has to be moved regardless of whether there is anything to go with it or not, and regardless of whether the train is light or heavy.

Q. Isn't it true that if you take the train consists out of any division point, that you will find that in 90 per cent. of the cases your engines are not loaded to their theoretical capacity? Have you examined to see?

A. I know, in a general way. In practice it is impossible to load an engine to its theoretical capacity. There are a great many things
that prevent that. The condition of the engine, the condi-
1702 tion of the atmosphere, the condition of the track and the question of wind pressure, so that we simply aim to load the engine with all that it can practically haul, which is generally somewhat less than it can theoretically haul.

Q. Isn't it a fact that when you are making up your trains from various division points, that you have got certain schedule trains, fast freight trains that run every day, maybe one or two trains a day each way, and you have got to run those trains whether you have got the theoretical loading or not?

A. Always.

Q. Then you have a great deal of fast freight that is not hauled on regular trains, like California fruits and vegetables?

A. Yes.

Q. And perishable items?

A. Yes.

Q. And trains have to be made up and run, whether you have got the train load or not?

A. Yes, sir.

Q. And that applies to traffic in both directions?

A. Yes, sir.

Q. Now, isn't it a fact that when your engine and crew get to one division, that they have got to be gotten back on their return trip so as to bring other freight that will be accumulated, and you might not have a full load going back for them, but they have got to go back anyway?

1703 A. Yes, sir.

Q. And isn't the result of it that it is practically impossible to adjust a freight business down to the theoretical loading of engines?

A. It is impossible to attain full loading of our engines, of course. Our through train loading last year was 289 tons. Probably the average capacity was three times that.

Q. Now, in the examination of the annual reports of other railroads, do you not find that that same condition prevails pretty well throughout the district where you operate?

A. Well, I have not given any special attention to the reports of other roads. I look at their average train loading and compared it with ours. What their theoretical train loading is I don't know. I don't know the class of engines they have.

Q. You stated in your original testimony the other day the basis on which, in your opinion, the relative rates between these commodities should be. Now, I desire to ask you what is the general basis of rates, whether it is made upon guess work or whether it is made upon some conditions other than guess work?

Mr. SEVERANCE: I think, your Honor, that that was gone into on the direct examination.

The COURT: I think so. What is the use of going over that again?

Mr. COWAN: If there is any further explanation you desire

1704 to make in regard to it, you are at liberty to do so.

Mr. SEVERANCE: I don't think he is at liberty to do so, in view of the present attitude of the Court.

The COURT: The objection to the question is sustained.

Mr. COWAN: I was going to add, he was at liberty to do so so far as the complainant's counsel was concerned.

The COURT: He went over that fully last time. It is not necessary to spend any more time on it now.

Mr. COWAN:

Q. The figures which you have stated in the original statements filed, were made up by your statistical department?

A. Yes.

Q. Mr. Peabody is the man who made up those statements?

A. Yes.

Q. Does he understand the detail of the points on which the inquiries were made of you on Friday?

Mr. DAWES: I object to that.

The COURT: The objection is sustained.

Mr. COWAN: I will prepare a statement and hand it to you before you leave, requesting that you make a comparative statement of the cost of receiving at Carrollton, or such a place as Carrollton, where you receive live stock this side of Kansas City.

1705 The COURT: You had better put that in writing and submit it to the other side.

Mr. DAWES: How is that, your Honor?

The COURT: I stated that he had better put those statements in writing, showing what he wants, and hand them to the witness out of court and then the witness will bring it. It will save a great deal of time in court.

Mr. SEVERANCE: Of course the witness will bring the statement back.

Mr COWAN: It is extremely difficult to cross-examine one witness and then turn right around and cross-examine another and attend to these statements also.

Mr. SEVERANCE: You ought to have thought of it in the first place.

1705*a* *Amounts Paid During Fiscal Year Ending June* 30, 1905, *in Settlement of Claims for Loss and Damage — Account — Delay to Livestock.*

Shipments.

Claim No.	Amount paid.	Division.
2848	$325.00	M. E. Mo. Ill.
2937	163.57	Mo. Ill.
2944	72.50	Mo. Ill.
2837	115.52	M. E. Mo. Ill.
2422	450.00	Mo. Ill.
2552	175.00	W. E. Mo.
3064	134.37	Mo. Ill.
2256	80.00	S. K. K. K. E. Mo. Ill.
2076	198.67	S. K. Ill.
2028	144.74	S. K. Ill.
2075	57.82	S. K. Ill.
2919	200.00	E. Mo. Ill.
3216	91.97	M. E. Mo. Ill.
2383	86.27	Mo. Ill. M. K.
2712	82.33	K. C. M. E.
2967	77.47	Mo. Ill.
2166	9.00	Ill.
2461	69.00	Mo. Ill.
2868	72.81	M. E. Mo. Ill.
1746	100.00	W. M. Mo.
2813	78.16	M. E. Mo. Ill.

Exhibit—Ripley, trans. p. 1705.

	Claim No.	Amount paid.	Division.
1705*b*	2872.....	$67.56.....	M. E. Mo. Ill.
	2850.....	88.74.....	Mo. Ill.
4071.....		120.00.....	Mo.
2903.....		119.37.....	M. E. Mo. Ill.
4505.....		6.00.....	Ill.
2053.....		335 59.....	S. K. E. Mo. Ill.
2080.....		494.00.....	S. K. E. Mo. Ill.
3073.....		32.30.....	Ill.
2866.....		14.92.....	Ill.
2981.....		22.15.....	Mo. Ill.
2972.....		29.88.....	Mo. Ill.
2982.....		25.36.....	Mo. Ill.
3007.....		32.00.....	Mo. Ill.
2273.....		10.00.....	Mo.
2360.....		25.00.....	Mo. Ill.
2976.....		50.00.....	Mo. Ill.
2293.....		15.00.....	Mo.
3105.....		50.00.....	Mo. Ill.
2938.....		22.16.....	Ill.
2759.....		44.19.....	Mo. Ill.
2805.....		50.00.....	M. E. Mo. Ill.
2804.....		48.29.....	N. E. Mo. Ill.
2895.....		27.20.....	Ill.
2614.....		15.00.....	Ill.
2298.....		50.00.....	Mo. Ill.
2453.....		6.00.....	Ill.
	3319....	26.60.....	Mo. Ill.
1705*c*	2825.....	13.33.....	Ill.
	2791.....	49.60.....	Mo. Ill.
2356.....		25.50.....	M. E. Mo. Ill.
2244.....		15.00.....	S. K. E. Mo. Ill.
2443.....		30.00.....	W. M. E. Mo. Ill.
2803.....		20.00.....	Ill.
2506.....		20.00.....	Ill.
2617.....		28.91.....	Mo. Ill.
4134.....		25.00.....	Mo. Ill.
1286.....		50.00.....	Mo. Ill.
2725.....		35.90.....	Mo. Ill.
2815.....		22.14.....	Me. Mo. Ill.
3149.....		50.00.....	E. Mo. Ill.
2927.....		42.80.....	M. E. Mo. Ill.
2929.....		40.95.....	Ill.
2814.....		50.63.....	M. E. Mo. Ill.

1705*d*	Statement	One	$2,706.04
	"	Two	1,682.38
	"	Three	742.55
			5,130.97

Exhibit—Ripley, trans. p. 1705.

1705*e* *Telegram.*

Number	Rec'd from	Sender	Receiver	Time Rec'd
4	P. M.	O.	Se	2:30 P

KAN. CITY, 9/30, 1905.

To Jas. Peabody:

J. D. X. 6-176 Amount paid during fiscal year ending June 30" 1905, acct. delay to shipment of stock which moved between K. City & Chicago is five thousand one hundred and thirty dollars and ninety seven cents other divisions are involved in some of the shipments see statement to you by mail today.

H. 3 W. A. COMBS.

Ex.—Ripley, trans. p. 1705.

1705*f* SEPTEMBER 29, 1905.

W. A. Combs, Kansas City:

Please wire me figures of the amount of damages paid for delays on live stock for year ending June 30, 1905, on movement between Kansas City and Chicago. Must have these figures by early Monday morning.

JP-176 JAS. PEABODY.

Exhibit—Ripley, trans. p. 1705.

1705*g* Ex.—RIPLEY, p. 1705.

The Atchison, Topeka & Santa Fe Ry. Co.

Statement Showing Investment in Stock Yard Facilities, December 31, 1903.

Illinois Division.

Location.	Yards. Cap. cars	Yards. Value.	Stock tracks. Length.	Stock tracks. Value.	Stock scales. Value.	Total.
Ancona	8	400 00	....	.....	.....	400 00
Appleton	15	1 100 00	....	.....	160 00	1 260 00
Benson	6	200 00	351′	300 00	100 00	600 00
Cameron	15	700 00	657′	600 00	240 00	1 540 00
C. B. Junction	2	100 00	....	.....	.....	100 00
Chillicothe	15	700 00	....	.....	.....	700 00
Coal City	3	200 00	....	.....	.....	200 00
Cooper	2	200 00	....	.....	.....	200 00
Corwith	12	1 000 00	....	.....	.....	1 000 00
Dahinda	6	200 00	1369′	1 200 00	.....	1 400 00
Dallas	15	700 00	565′	500 00	100 00	1 300 00
Dana	4	200 00	....	.....	.....	200 00
Decorra	8	400 00	....	.....	100 00	500 00
Drummond	5	300 00	840′	800 00	.....	1 100 00
E. Ft. Madison	8	500 00	....	....	100 00	600 00
Edelstein	15	700 00	855′	800 00	.....	1 500 00
Galesburg	9	600 00	....	.....	100 00	700 00
Gorman	6	400 00	....	.....	.....	400 00
Groveland	3	200 00	....	.....	.....	200 00
Holton	4	200 00	549′	500 00	100 00	800 00
Joliet	6	300 00	....	.....	.....	300 00
Kernan	15	700 00	....	.....	.....	700 00

Location.	Yards. Cap. cars.	Yards. Value.	Stock tracks. Length.	Stock tracks. Value.	Stock scales. Value.	Total.
Kinsman	4	200 00	....	.....	150 00	350 00
Knox	4	200 00	428′	400 00	.....	600 00
La Rose	15	600 00	592′	500 00	....	1 100 00
Laura	15	700 00	664′	600 00	160 00	1 460 00
Leeds	6	400 00	....	.....	.....	400 00
Lemont	1	50 00	....	.....	.....	50 00
Lockport	1	100 00	....	.....	.....	100 00
Lomax	15	600 00	494′	400 00	170 00	1 170 00
Long Point	4	200 00	....	.....	.....	200 00
Lorenzo	6	400 00	....	.....	.....	400 00
Mazon	4	200 00	....	.....	.....	200 00
Media	15	700 00	1103′	1 100 00	.....	1 700 00
Millsdale	19	1 100 00	....	....	.....	1 100 00
Minonk	7	200 00	....	.....	.....	200 00
Monica	15	700 00	393′	400 00	.....	1 100 00
Moon	3	200 00	....	... ..	.....	200 00
Morton	8	100 00	....	.....	.....	100 00
Nemo	15	250 00	....	.....	100 00	350 00
Ormonde	15	700 00	572′	500 00	100 00	1 300 00
Ponemah	15	700 00	565′	500 00	160 00	1 360 00
Pontoosuc	6	300 00	615′	500 00	.....	800 00
Princeville	15	700 00	567′	.....	.....	1 300 00
Ransom	5	200 00	....	.....	.....	200 00
Roanoke	6	200 00	....	.....	.....	200 00
Smithshire	15	700 00	531′	500 00	.....	1 200 00
Streator (Parker's Switch)	5	300 00	300′	300 00	.....	600 00
Stronghurst	15	700 00	603′	500 00	.....	1 200 00
Surrey	15	700 00	598′	500 00	.....	1 200 00
Toluca	8	600 00	569′	500 00	100 00	1 200 00
Verona	5	200 00	....	.....	160 00	360 00
Washington	1	200 00	....	.. ...	.....	200 00
Wilbern	8	500 00	1064′	900 00	200 00	1 600 00
Williamsfield	15	700 00	600′	500 00	160 00	1 360 00
		24 200 00	....	13 800 00	2 460 00	40 560 00

1705*h* Missouri Division.

Location.	Yards. Cap. cars.	Yards. Value.	Stock tracks. Length.	Stock tracks. Value.	Stock scales. Value.	Total.
Agency Ford	4	200 00	....	.....	.....	200 00
Argyle	15	800 00	661′	700 00	.....	1 500 00
Atherton	8	600 00	585′	600 00	.....	1 200 00
Baring	15	800 00	679′	700 00	.. ..	1 500 00
Biddle	10	500 00	766′	800 00	....	1 300 00
Bosworth	15	800 00	745′	800 00	150 00	1 750 00
Bricker	5	300 00	....	.....	.....	300 00
Bucklin	15	800 00	591′	600 00	.....	1 400 00
Camden	4	400 00	....	.....	.....	400 00
Cardy	6	400 00	....	.....	.....	400 00
Carrollton	15	1 000 00	1113′	1 100 00	100 00	2 200 00
Converse	4	400 00	....	.....	.....	400 00
Courtney	9	300 00	....		.....	300 00
Dean Lake	8	600 00	862′	900 00	.....	1 500 00
Dumas	1	100 00	....	.....	... ..	100 00
Ethel	10	600 00	652′	700 00	.....	1 300 00
Floyd	8	900 00	681′	700 00	.... .	1 600 00
Fort Madison	60	8 400 00	2507′	2 500 00	.....	10 900 00
Ft. Madison Dpt.	1	100 00	....	.. ..	.....	100 00
Frazier	7	300 00	533′	600 00	.....	900 00
Gibbs	15	900 00	648′	700 00	.....	1 600 00
Gorin	15	900 00	503′	500 00	.....	1 400 00
Gower	8	700 00	....	.....	.....	700 00

Location.	Yards. Cap. cars.	Value.	Stock tracks. Length.	Value.	Stock scales. Value.	Total.
Hardin	15	800 00	....	.....	100 00	900 00
Hart	6	300 00	796′	800 00	.....	1 100 00
Hurdland	15	900 00	658′	700 00	100 00	1 700 00
Kenwood	6	300 00	...	.....	.....	300 00
La Plata	20	1 000 00	654′	700 00	.....	1 700 00
Lathrop	6	600 00	858′	900 00	100 00	1 600 00
Lawson	10	900 00	....	.....	100 00	1 000 00
Lawson (1½ miles east of Lawson)	6	300 00	....	.....	.....	300 00
Lexington Jc.	15	900 00	....	.....	150 00	1 050 00
Marceline	15	900 00	969′	1 000 00	300 00	2 200 00
Medill	15	900 00	500′	500 00	200 00	1 600 00
Mendon	15	900 00	609′	600 00	.....	1 500 00
Norborne	15	1 000 00	....	.....	100 00	1 100 00
Palemon	4	300 00	....	.....	.....	300 00
Plattsburg	15	1 000 00	....	.....	140 00	1 140 00
Rayville	9	400 00	....	.....	.....	400 00
Revere	15	900 00	687′	700 00	.....	1 600 00
Richmond	5	400 00	....	....	100 00	500 00
Rothville	15	900 00	....	.....	.....	900 00
Rutledge	15	900 00	....	.....	.....	900 00
Scearces	4	200 00	....	.....	....	200 00
Sibley	8	600 00	....	.....	.....	600 00
Standish	15	900 00	85′	900 60	100 00	1 900 00
Vibbard	4	300 00	....	.....	160 00	460 00
Wyaconda	15	900 00	657′	700 00	.....	1 600 00
Total		38 200 00		19 400 00	1 900 00	59 500 00

1706 Mr. COWAN: Mr. Ripley may not want to come back and I wanted to inquire if Mr. Peabody knew the facts and figures and could explain it.

Mr. DAWES: Ask Mr. Peabody, wouldn't that be proper?

Mr. COWAN: I wanted to ask the question awhile ago and was not permitted to.

The COURT: It looks to the Court as if you were trying to beat your own witness.

Mr. COWAN: Not at all.

The COURT: I don't think it would do you any good or anybody else.

Mr. COWAN: Not at all. I didn't ask the witness the other day for example, for a statement with respect to whether these rates were reasonable or not. I asked him in regard to what the relative rates ought to be. Now, in case the *the* witness answers that he claims the rates are too low on each, I am not bound by them, I can make inquiry about it. I certainly have a right to now, in regard to it.

Mr. SEVERANCE: We are going to claim that you are bound by it.

Mr. COWAN: You may, but there is no law that makes it so.

Mr. DAWES: You have got to take the bitter with the sweet.

Mr. COWAN:

Q. What do your other station facilities cost, other than
1707 the stock yards?

Mr. SEVERANCE: What is that?

The WITNESS: I beg pardon, what is that question?

Mr. COWAN:

Q. You made a statement of stock yard facilities between Kansas City and here, and their cost. You have other station facilities used for other freight and other purposes?

A. Yes, certainly.

Q. They are very much more expensive than the stock yards?

Mr. SEVERANCE: I object as a mere conclusion, and not redirect examination.

The COURT: The question is objectionable as to the form perhaps in which you ask your question.

Mr. COWAN: I am just asking the general question. I do not think it is important to this case to prove the exact cost of these other facilities, but there are other facilities used for other freight. I am simply asking in a general way, questions as to whetl. r they are very much more expensive than the stock yards.

The COURT: You may answer.

A. They are.

Mr. SEVERANCE: Our objection is reserved to this your Honor, as not redirect and asking for a mere guess.

The COURT: You may answer—have you answered the question.

1708 A. I said they were, they are very much more expensive.

The COURT:

Q. What is more expensive?

A. As I understand the question, the other facilities generally at the stations.

The COURT: Have you any figures to prove that by?

A. Every station has its——

Mr. SEVERANCE: I reserve an objection to the question of the Court, as immaterial and not redirect examination.

The COURT: Yes, go ahead.

A. Every station has either combination freight and passenger stations, or a freight station and a passenger station separate, some of them are very simple and some of them are very elaborate; but of course the simplest one is more expensive than any facilities we provide for the stock.

Mr. COWAN:

Q. In answering that question in regard to the cost and value of stock yards, I understood you to say that while the cost represented the original cost, the repairs that are made from time to time are theoretically supposed to keep the yards in a state of preservation, so that the present value would be represented by the first cost?

A. Yes sir.

Q. And that consists of repairs and rebuilding and whatever has been done from the time they were built up to the present time?

A. Yes sir.

1709 Q. That goes in the current cost of repairs and support?

A. Yes sir.

Q. Have you estimated, or do you know what it costs you per annum to maintain these stock yards aside from the stock yards at feeding points and division points?

A. No, I do not.

Recross-examination by Mr. SEVERANCE:

Q. Mr. Ripley, you were asked just now about other stations aside from stock yards, you didn't have any other station facilities along the line that are used particularly for the handling of packing house products and dressed meats, I believe?

A. No sir.

Q. All of those products are shipped from one terminus to the other?

A. Yes sir.

Q. And the station facilities that you have are those made necessary for the handling of ordinary merchandise and the handling of your trains?

A. Yes sir.

Q. All trains alike, including live stock trains?

A. Yes sir.

1710 Recross-examination by Mr. BAXTER:

Q. Now, Mr. Ripley, you were asked as to the value of depots other than your stock yards, and as your testimony in regard to the stock yards applies to those located between the Missouri River and Chicago, I wish you would ascertain and give us the number of those depots that are not used for live stock, and what are used for ordinary dead freight and for passengers, and give us the revenue derived by your Company from the transportation of live stock between the Missouri River and Chicago, and the revenues derived by your Company from passengers and ordinary dead freight between the Missouri River and Chicago, so that we can get a comparison between the cost of your depots for live stock and the revenue from live stock with the cost of your depots used for other purposes and the revenue derived from other freight?

A. If I understand the question, it is going to be very difficult, if not impossible, to get that information—to segregate those earnings from our general earnings. For instance, we bring a great many passengers and an enormous amount of freight from the far West to Chicago, which is billed through, which passes over the line between Kansas City and Chicago.

1711 Q. It would not be difficult to get the number of depots and their cost?

A. No, no, that is easy enough. Substantially, the number of depots will correspond with the number of stock yards as already given. There being substantially a station wherever there is a stock yards, and a stock yards wherever there is a station, but to

get the earnings on our line between here and the Missouri River segregated from the other earnings, would be difficult.

Q. Well, your local earnings between here and the Missouri River, would not be difficult to ascertain would it?

A. Yes, they would; it would be a work of considerable magnitude to get at that.

Q. Well, of course, I don't want to make too much work.

A. It would take a good while.

JAMES PEABODY, called as a witness in behalf of the petitioner, having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. Your full name?

A. James Peabody.

Q. What is your business?

A. Statistician of the A. T. & S. F. Railway System.

Q. Explain, without detail of questioning how long you
1712 have been engaged in the railroad service, and the service you have been in?

A. I have been in the railroad service since 1871 nearly all of the time. I have been engaged in my present position since 1896.

The COURT:

Q. What do you say your present position is?

A. Statistician for the A. T. & S. F. Railway System.

Mr. COWAN:

Q. What positions have you filled and the character of them?

A. During that time?

Q. Yes.

A. I was Agent of the M. K. & T. Railway in Texas; and General Agent of the C. B. & Q. Railway at Cincinnati, in Charge of the central territory. I was Chief Clerk in the General Freight office; I was in charge of the pool traffic in the old days when pools were vogue; and I was in charge of the tariffs for Judge Cooley when he was on the Wabash, and for a few years I was editor of the "Railway Review" and then my present position.

Q. The Court holds that will qualify you as you are an editor. Now, Mr. Peabody, I want to know if you have examined your statistics with respect to the relative cost of handling packing house products and dressed meats from Kansas City to Chicago.

A. I have done so on the basis of the average cost for handling all business.

1713 Q. Is it possible to determine what it costs to handle a given car load or a given train load, for the whole of a given commodity between two given points?

A. It is not.

Q. What is the nearest approximation that can be made to it?

A. The nearest approximation that I have been able to make is on the basis of the gross ton mile, the average cost on the basis

of the gross ton mile, which means the total weight carried, multiplied by the number of miles.

Q. What is the unit of that determination, is it the gross weight behind the engine?

A. The gross weight behind the engine, the number of tons behind the engine multiplied by the miles run.

Q. Under the conditions as they do actually exist in the railroad traffic, is a theoretical train loading attained in actual practice?

A. Do you mean the theoretical rating of the engine?

Q. Well, yes.

A. It is not, because of the varying conditions under which the engines operate. The engine on one day pulls more or less than it can on another day because of the variation in wind, the condition of the track, the atmosphere, various things of that sort. The usual practice is, for the train dispatcher who directs that, I mean the usual practice on our road is, for the train dispatcher,
1714 who directs that to make his own estimate and get as near the theoretical train loading as he can.

Q. And that will depend on whether he has the freight to carry?

A. Of course.

Q. Does it often happen that at a division point there will be more than two train loads and not three, or more than three and not four, to be moved, so that you move the greater number of trains, and yet have less possible loading than the theoretical, or natural tonnage?

A. On ordinary freight, such as does not require any particular dispatch, they usually try to get the movement capacity of the locomotive under the prevailing conditions, but when the freight consists of dressed meat, perishable freight of any sort——

Mr. SEVERANCE: Live stock?

A. Or live stock—they move that as fast as they can; they do not hold it, in other words, to make up train tonnage. It is the desire of every division superintendent to have the fewest possible trains for the amount of tonnage he handles, and he is constantly striving to that end.

Mr. COWAN:

Q. But in the movement of traffic both ways, crews have to return from one division point to another, do they not?

A. They are very often returned dead-head. Perhaps I might explain that: The reason for that is, if they return dead-head, there is no tonnage marked against them, whereas if they run
1715 with a light train, there would be tonnage marked against them and the record of the division superintendent would not show as well in that case as where his crew goes back dead-head and waited for its tonnage.

Q. In making up the average freight loaded train mileage for the accounts of the Interstate Commerce Commission, do you take into consideration and add as loaded train mileage an engine and caboose empty?

A. No sir. Wait a moment, I will not be sure of that, but I think

not. I think that is an exception. It is printed right in the reports, and you can tell by that. I haven't made that up for sometime. My recollection is, no.

Q. You haven't made that up lately? The actual loaded car mileage is representative of the number of miles made by cars which have loads in?

A. Which have some freight in, they may have 100 pounds in them.

Q. Yes.

A. It is a loaded car if it has anything.

Q. And it may not be a car load, but it is a loaded car?

A. It is a loaded car for the sake of determining how many cars are loaded and how many are empty.

Q. That which has less than a car load in it always takes the less than car load rate, which is higher than the car load rate?

A. Oh, yes, always. And it is the desire of the Operating department to make their loads per car as heavy as possible so that

1716 as a rule they load them as much as they can.

Q. Even with the local freight?

A. Even with the local freight.

Q. What is the average train loading, that is to say the per cent. of train loading to the engine rating on the average.

A. I could not tell you that.

Q. What is the average rating of your engines, do you happen to know?

A. I do not mnow that.

Q. The revenue carried per ton is very much less than the rating of the engine, is it not?

Mr. SEVERANCE: I object to that, as he says he does not know what the rating is, he cannot tell.

The COURT: The objection is sustained.

Mr. COWAN:

Q. You made up the figures which Mr. Ripley used in his statement the other day?

A. I presume so. I didn't hear his statement. I furnished him some figures which he wanted and I presume he used them in his statement. I was not here at the time he gave his testimony.

Q. What are the expenses incurred at Kansas City in the transportation from there of packing house products per car, and the transportation from there of live stock cars, both destined to Chicago?

A. On the basis of average cost or on the basis of the cost to those articles?

1717 Q. I am asking you to explain in any way you please what is the relative expense incurred in the two classes of traffic a car of live stock and a car of packing house products and dressed meats?

Mr. SEVERANCE: That is confined to the Santa Fe road is it, Mr. Cowan, that question?

Mr. COWAN: Oh, yes.

A. To do that I would have to explain the method by which I arrive at it, it won't take but a moment or two though.

The COURT: Proceed.

A. We first have what is known as a train report, or wheel report, a copy of which comes to my office, of every wheel report on the road. There it is figured up as to the number of gross ton miles covered by the wheel report and it is assigned to the district where the train operates, or the portion of the road over which the train runs. We ascertain in that way the gross ton miles over every portion of the road. Then we take our expenses, every expense which we pay, we take the voucher for it and analyze it as to where that expense is incurred, locating it as between freight and passenger as far as we can, locating it as to the portion of the road as far as we can. We are able to locate absolutely over 80 per cent. of these expenses as to the service and as to the location.

1718 We then make a distribution of these expenses on the basis of the gross ton miles, and assign to each Division for each separate account, the outlay for that account to that Division, and find what the rate is per gross ton mile for handling over that Division.

Then in the case in hand, I took the weight of the car of dressed meat, packing house product and live stock as furnished by the Interstate Commerce Commission in their report in this case, I took the weights which they gave, 28,000 pounds I believe for the packing house products, and 21,000 pounds for the dressed meat and 22,000 pounds for the live stock, and added to the weight of the car which they also gave, took their weights exactly and applied my figures to those weights, first deducting from the dressed meat and packing house product computation, the average cost of repairing the cars, because we do not do anything to those particular cars except paying for running repairs, we do not maintain those cars, whereas my charge in my general average included the maintenance of cars—so I deducted the average charge for the maintenance of the car from that computation. I added into that computation, the mileage of the car because we pay a cent a mile on those cars. I did not deduct from the computation the cost of running repairs, which at an estimate come somewhere about, well, between $1.50 and $2 per car perhaps, that has never been figured up particularly on those cars.

1719 Mr. SEVERANCE: Per annum, do you mean?

A. No, per car for the round trip between here and Kansas City. A refrigerator car going from here to Kansas City, we sometimes break a column bolt, or arch bolt, or draw bar, and have to replace brake-shoes all the time, and those things go into what is called running repairs. I did not deduct that, I did deduct the whole of my repairs from the computation without taking any account of that that we paid, it being a *amsll* item; but on the other hand, I did not deduct the total mileage which we paid because that when pro-rated over the entire business, is a small item. I have ascertained so far as that is concerned that that amounts to 90.8 cents per car for the round trip between here and Kansas City, which

is more than off-set by the repairs which we deducted. So that in that computation it was shown I presume, as Mr. Ripley read, here are the figures I furnished him—I showed the expense on three bases: One which included the entire transportation cost, including interest and taxes; another which considered only the operating cost, which included maintenance of way and equipment and what is generally known as operating expenses; and a third, which is based on what I term, movement cost, which was figured on an estimate of 55 per cent. of the operating cost.

On those three bases it showed that on packing house products——

1720 Mr. SEVERANCE: It is the same figures that Mr. Ripley had?

A. Yes.

Mr. SEVERANCE: There is no use of reading that.

Mr. COWAN: Whatever it shows, is in the record.

Q. In respect to the item of $4 charged against the item of dressed meat per car for switching, and also $6.80 charged at Kansas City for terminal expenses there, I would like to have your explanation as to how those items came to be both included in the statement.

A. The $4 represents the cost which we pay to other lines for getting the business; some we pay $3, some $4 and some $5. I did not find out how many cars we paid at these various rates, but I took the middle rate, which was $4. That is not included in my charge for terminal expenses, that is a switching charge which we pay out.

The way we arrive at the terminal expenses is to apportion to the Kansas City Division all of the expenses of that Division the same as we do on all the rest of the line, and divide it by the number of cars handled by the Kansas City Division, and that makes a charge for the round trip in and out of $6.80. I took the pains to wire our Kansas City Agent Saturday, and asked him for his estimate of the cost of handling the car in and out of Kansas City.

Mr. SEVERANCE: I object to that as hearsay and incompetent.

1721 Mr. DAWES: We object as incompetent.

Mr. COWAN: I take it that it is a statement received in the natural course of business.

The COURT: Put it in for what it is worth.

Mr. SEVERANCE: I think it is an unnatural course of business.

The COURT: Go ahead and read it.

Mr. SEVERANCE: I object to the statement on the ground that it is hearsay and incompetent and not rebuttal.

The COURT: Are you serious about that Mr. Severance?

Mr. SEVERANCE: Yes sir.

The COURT: How much of your testimony is at first hand?

Mr. SEVERANCE: It went in without any objection.

The COURT: Sir?

Mr. SEVERANCE: I don't know of any that went in under objection.

The COURT: There was no witness shown here, no one witness sworn to anything without taking a good deal of it second hand.

Mr. DAWES: Your Honor, the particular objection to this I think,

was not shown by your Honor's differentiating. If this were perhaps a table of statistics acquired by him in the ordinary course of business from a subordinate, it would be admissible. This is the estimate of some man, not based upon figures, but is his
1722 general estimate of the cost. We cannot cross examine this man. This it would seem to me would be a very wide rule.

The COURT: You can cross examine this witness. This man is an expert man, and he gets these figures, relies on these figures the same as he relies on any other figures he gets.

Mr. DAWES: If they were figures, your Honor, I think they might perhaps go in, but the estimate should not.

The COURT: Let them go in for whatever they are worth. I consider them proper the same as in any chancery case.

The WITNESS: My question to him was: "Take a car of meat coming from any packing house as compared with a car of stock from the stock yards, I want the estimated cost to us outside of the switching paid to other lines, to get same to Sheffield"—that is where the end of the Kansas City yard is. His answer is: "Stock from trains at Argentine to Sheffield, $9.50; stock from stock yards including loading and disinfecting, $11.40; stock from stock yards not unloading, not including the loading and so forth, $7.50; meat from Twelfth street, $10.50; meat from other points to Sheffield, $7.50. Above on basis of single car handled. If more cars handled at one time, cost correspondingly decreased. Such business will probably come one and two cars at a time in such shape as not to allow consolidation and of course would have to have special service. This without counting use of car if our own stock car, but
1723 counting wages of crew, supplies, maintenance of engines and so forth, and counting Kansas City Belt trackage at 50 cents per car.

Mr. COWAN:

Q. Does that include or exclude the $4?

A. That excludes the $4.

Q. Now, the $4 you pay for getting it to your line, where you get it, is that right Mr. Peabody?

A. I beg pardon?

Q. The $4 is what you pay up to the point where your general expenses begin?

A. According to the rate, that costs three, four or five dollars as the case may be.

Q. Either three, four or five dollars, in addition to other expenses?

The COURT: What do you mean by "getting the business?"

A. We take it where the other road delivers to us, our junction with the road that switches to us. We do not reach the packing houses at all, and some other road has to switch those cars to us, and the point that we take it from the other line is where these expenses begin. We have to pay three, four or five dollars as the case may be for the switching by the other line, from the packing houses to our line.

Mr. COWAN:

Q. Was that $4 embraced in Mr. Ripley's figures, furnished by you a part of the $6.80?

A. Not at all.

1724 Q. Now, from your general knowledge of the subject independent of the exact figures, is it more or less expensive for you to receive and haul a car load of packing house products or dressed meat from Kansas City to Chicago than a car load of live stock from Kansas City to Chicago?

A. My own opinion is that it costs more to handle dressed meat and packing house products than it does the live stock.

Q. Now, have you made up any statement relative to the cost of handling live stock from stations this side of Kansas City like Carrollton, or a train picked up between Kansas City and some point 100 to 150 miles out compared with the dressed meat and packing house product?

A. I have not made up a statement, it would be a simple thing to make, I did not know as it was wanted.

Q. Independent of the statement showing exactly the relative cost, is it more expensive to you to haul a packing house product train from Kansas City to Chicago than it would be to pick up a train of live stock at Carrollton and haul it to Chicago?

A. A train originating at Carrollton and any other train originating at Kansas City?

Q. Yes.

A. I should say it would cost us less to haul the live stock from Carrollton to Chicago.

1725 *A. I should say it would cost us less to haul the live stock from Carrollton to Chicago.*

Q. I have here two statements that I want you to prepare to file and bring them down so that you can be cross-examined if desired: one is the cost of handling a train of live stock from Carrollton to Chicago as compared with the cost of handling a train of dressed meat from Kansas City to Chicago; the other is the cost of picking up a train say in the distance of 150 miles out from Kansas City at intervals, of live stock, and I will hand you the memorandum when you leave the stand and ask you to make that statement up.

A. You understand of course that I can only make it on the basis of the average cost, I cannot make it on the basis of particular cost.

Q. I understand. Now, if you receive a car at the stock yards at Kansas City, or ten cars of live stock to be brought to Chicago, what service have you to perform in doing so?

A. I do not know that I catch the drift of that question.

Q. If there are ten cars of live stock at the yards, and you are notified of that fact, for you to bring to Chicago from Kansas City, what service have you to perform in doing it?

A. We send a switch engine over to the yards and get the cars and bring them to where the train is made up and put them into the train and start it for Chicago.

Q. And where is the place it is made up?

1726 A. Well, that depends. It is not always made up at the same place, it depends on whether it is going in a solid train of live stock. A part of a train of live stock may stand up in the Argentine Yard, and it may be pulled up and put in that; or part of a merchandise train may be standing in the lower yard and they may be put in there. It depends altogether where the rest of the cars are.

Q. At all events a switch engine goes to the yard and gets the cars and brings them out and puts them in a train, wherever that is, and you pay 25 cents a car for the loading?

A. Yes, sir.

Q. Now, in case you have the same number of cars of dressed meat and packing house products, what service have you to perform with those?

A. Well, the switch engine has to take hold of them to make up the train. They are delivered to us at the junction of the road that gives them to us, and the switch engine has to put them into the train and they are sent to Chicago.

Q. Substantially the same service in both cases?

A. I should say that the service in connection with the stock cars was a little more than it was in connection with the dressed meat or packing house product.

Q. Why?

A. Well, that packing house product is usually delivered to us in the lower yards nearer to Sheffield than the stock would come from.

Q. Simply the difference in the length of the switching?

1727 A. Just a little difference in the length of the haul in the switching.

Q. Is that very much or inappreciable?

A. Not very much.

Q. Very well. Before you receive the packing house product you have to pay this three dollars or four dollars or five dollars?

A. Well, we have to pay for every car we receive.

Q. You have twenty-five cents in the case of the live stock and have three dollars or four dollars or five dollars in the case of the packing house products in each case? They are put in the train, may be in the same train and brought into Chicago?

A. Possibly.

Q. Except these statements that I want to get you to make up, I have no other questions.

There is one other question, Mr. Peabody: In a general way I will ask you to state what is the comparative cost per carload, of maintenance and expenses, of expenses incurred in the freight received at local small stations compared to the expenses per car at large cities like Chicago and Kansas City.

Mr. SEVERANCE: I object to that as immaterial.

A. I don't know; I could not answer that.

Mr. COWAN: Well, are the expenses generally greater at the large centers per car?

Mr. SEVERANCE: The same objection, your Honor. He says he don't know, he should not be asked to guess.

1728 The COURT: The objection is sustained.

A. I know nothing about what it costs at the smaller places in detail.

Cross-examination by —— ——:

Mr. SEVERANCE: What is this statement you asked him to make up, Mr. Cowan?

Mr. COWAN: The cost of handling a train of live stock from Carrollton, Missouri, to Chicago compared with a train of fresh meat and packing house products from Kansas City, Missouri, with the same gross tonnage.

Second, the cost of picking up a train of live stock at points east of the Missouri River, making, say, ten stops to pick it up, the first stop fifty miles east of the Missouri River, and the last stop 150 miles, of thirty cars, compared with a train of fresh meat and packing house products of the same gross tons from Kansas City, Missouri, both destined to Chicago.

Mr. SEVERANCE: Wouldn't it be better to defer cross-examination until this comes in? This seems to be most of his testimony.

Mr. COWAN: That is agreeable.

Mr. SEVERANCE: Do you want to examine him now, Judge Baxter?

Mr. BAXTER: Yes.

1729 Cross-examination by Mr. BAXTER:

Q. Mr. Peabody, on the examination of Mr. Ripley, he put in as exhibits to his testimony the following: "Comparative Exhibit of average revenue per car load by commodities on A. T. & S. F. Ry. system for the year ending December 31st, 1903; and comparative exhibit of average tons per carload by commodities on A. T. & S. F. Ry. system for the year ending December 31st, 1903. I wish you would examine those two papers here handed you and state whether you caused them to be made up and whether they are correctly compiled?

A. Those are two diagrams I made and they are correct for the dates named.

Q. Now, I hand you a paper headed, "cost of revenue and profit on Texas cattle traffic marked Exhibit C-1. I wish you would state whether you also made that paper and whether it is correct?

A. Yes, that was also made by me and put in as my exhibit on that case.

Q. Mr. Peabody, are you in a general way familiar with the operation of other railroads west of Chicago and running through the same country with the Atchison, Topeka & Santa Fe System?

A. I have examined the reports of a great many, most all of the western roads and am somewhat familiar with their business both from the reports and by actual view of the road.

Q. Now, how do you think the cost of operation and maintenance

and the cost of doing business generally on those roads would
1730 compare with that of the Atchison, Topeka & Santa Fe?

A. If you will exempt the maintenance, I would say that the roads that run through the territory which is somewhat like the Atchison, the roads of the southwest, the operating expenses were not very different; but the question of maintenance is an arbitrary proposition. The roads spend what they please in that regard. Some roads spend five thousand dollars and some twenty thousand dollars a mile. Of course that is all reflected in operating expenses. The road that spends five hundred dollars a mile would not of course be as much as the road that spent a thousand dollars.

Q. Now, will you kindly explain to the Court the principle on which you made up the two exhibits filed by Mr. Ripley, and this additional Exhibit C-1 which I now hand you so that His Honor will be able to take those exhibits and understand how to apply them to any question that may occur to him in the examination of the case?

(Here follows facsimile, marked p. 1730*a*.)

EXHIBITS

NOT

SUITABLE

FOR

MICRO-

FILMING

A. The exhibit showing the average revenue per car load is arrived at by ascertaining the total earnings on the particular commodity shown and dividing by the total number of carloads of that commodity handled. There are quite a number of commodities shown on these exhibits and they are all arrived at in the same way.

Q. Now, will you read those commodities off so that the Court can understand the scope of that comparison?

1731 A. On the total of carload freight we earned $65.35 per car for the year ending December 31, 1903.

On agricultural products as a whole we earned $85.75.

On grain we earned $82.83.

On flour and mill products $63.15.

On cotton and cotton seed products $61.00.

On fruit and vegetables $154.51.

I might explain right here that this only represents the amount we earned on the car regardless of the distance we hauled it. Fruits and vegetables are hauled from California, a long distance, whereas cotton and cotton seed products are hauled a comparatively short distance, and this merely represents the total we earned on the car load.

The other agricultural products than those mentioned, $67.98.

Animal products average $50.55 a car.

Horses paid $54.16 a car.

Cattle $42.43 per car.

Sheep, 54.49 per car. That includes some double deck sheep.

Hogs $28.39 per car.

Dressed meat and packing house products $98.04.

All other animal products $123.37.

Mine products average $45.52.

Coal and coke pay $47.84.

1732 Ore and concentrates $62.47.

And all other mineral products $30.77.

Forest products $47.63. That is lumber, and all other forest products.

Manufactured products pay an average of $85.84.

Petroleum and other oils $73.87.

Sugar $106.17. That also comes from California.

Iron and articles of, $139.83.

Earth and stone products $38.63.

Agricultural implements and vehicles $112.15.

Household goods and furniture $89.50.

All other manufactured products $84.36.

These two diagrams should be read and considered together, one showing the tonnage and the other earnings, and the difference in the earnings will in some measure be accounted for by the difference in tonnage; it will not be altogether accounted for because there is a difference in the length of the haul.

The tons of the car load freight, the total carload freight is twenty tons, almost twenty tons—19.99.

Agricultural products average 18.84 tons, grain 26.40 tons to the car; flour and meal products 18.03 tons; cotton and cotton-seed

products 12.13 tons; fruits and vegetables 14.05. Other agricultural products 12.89 tons.

Then comes animal products averaging 11.27 tons; horses
1733 load 10.77 tons, ten tons and 77/100ths; cattle 11.32; sheep 10.36; hogs 8.92; dressed meats and packing house products load 12.92 tons. All other animal products 12.84 tons.

Mine products load 26.29 tons; coal and coke loading 25.57 tons; ore and concentrates 25.51 tons. All other mineral products 29.35 tons.

Forest products average 21.54.

All manufactured products 20.61.

Petroleum and other oils 30.01 tons.

Sugar 18.35 tons;

Iron and articles of, 21.40.

Earth and stone products 23.39.

Agricultural implements 12.93 tons.

Household goods and furniture 10.68.

All other manufactured products 16.52 tons.

Q. What do you find to be the average earnings on all carload freight on Atchison, Topeka & Santa Fe System for the year ending December 31, 1903?

A. 19.99, almost twenty tons.

Q. No, I mean the earnings?

A. The earnings, I thought you said tonnage. $65.35.

Q. Now, what were the average earnings per car load of cattle?

A. $42.43.

Q. Less than the average of all?

A. Less than the average of all.

Q. Now, what are the average earnings per carload of hogs??

A. $28.39.

1734 Q. That is below the general average?

A. That is below.

Q. What is the average weight of loading of all carload freight?

A. 19.99 tons.

Q. What is the average weight of a load of, car-load of cattle?

A. 11.32 tons.

Q. And the average weight of loading of a carload of hogs?

A. 8.91 tons.

Q. Is is not shown by your exhibit that the proportion of dead weight to the revenue tonnage hauled is very much larger in the case of live stock than it is in the case of any other commodity hauled except furniture?

A. That is true. Furniture is 10.68 tons which is between cattle and sheep.

Q. Now, Mr. Peabody, in making up your Exhibit C-1 you have one column headed 15.5 weight of car, 11.3 weight of load, and 2 bedding. I was just going to ask you what those three sets of figures mean. 15.5, what does that mean?

A. 15.5 is the weight of the car, 15.5 tons.

Q. The empty car?

A. The empty car, weight of the car. 11.3 tons is the average

weight of the load in the car, the cattle, and two tons is the average weight of the bedding.

Q. Now, does your Company furnish the bedding?

A. Yes, sir; mostly sand, most of the bedding is sand.

Q. What is it worth to your company, what does the Company have to pay for it?

A. Oh, it varies, depending on where we get it, how far
1735 we haul it. Over on the Pecos we haul it sometimes well onto a hundred miles, and it is only what it costs to shovel it into the car and haul it to delivery point. It is pretty hard to tell what that is worth per ton.

Q. At the rate you charge for hauling sand for other people, what would it cost, if you have got in your mind the average length of haul?

A. If we haul on an average of thirty miles it would cost perhaps—I don't know, I have been out of the rate business so long it is pretty hard to tell. I should not want to haul it less than about four cents a hundred, which would be eight dollars a ton.

Q. And at $8 a ton two tons would amount to $16.00?

A. I don't imagine it would cost us that; that would be a revenue proposition, of course. I don't imagine it would cost us anything of that sort.

Q. But it would cost somebody else that much if you had to haul it for them, wouldn't it?

A. Well, we might haul it that distance for less. As I say, the rates have changed so much since I have been in the rate business, which was some years ago, that I would not like to say anything about rates.

Q. Mr. Peabody, do you know of any other railroad Company in the United States that goes as elaborately as your Company does into endeavoring to ascertain the relative cost of handling different commodities?

A. I think not. I know of none.

1736 Q. Well, is the matter of cost or even of relative cost a factor that has heretofore been considered by railroad companies in making freight rates?

A. Never that I have heard of. The rate is not made on the basis of the cost at all.

Q. Well, why are they not made on the basis of the cost?

A. It would stop the business of the country if made on the basis of the cost. There are a great many things that could not move at all if we made it on the basis of the average cost. Some things we have to haul at less than that, including everything. As I say, it is pretty hard to tell what the cost is, what you mean by cost. I showed three bases of cost, one of the total cost of transportation, the other simply of operating expenses, and the other the movement cost. Now, it pays us to haul business which does not pay the total transportation cost, because it furnishes us something towards paying interest and taxes, although it would not serve to pay the proper proportion.

Q. Now, as I understand the statistics put in by Mr. Ripley, which

were prepared by you, they show that live stock does not begin to pay its proportion of all of the cost of operation including interest and taxes?

A. Oh, no, by no means.

Q. You say it does not?

A. That is take it as a whole it does not. There is some live stock that does pay and some that does not.

Q. I am taking it as a whole.

A. As a whole it does not.

1737 Q. Do you remember how much it falls short per car of paying its proportion of the entire cost including interest and taxes?

A. I do not know; I do not remember. I think it is shown in my testimony in the cattle case, I am not sure.

Q. According to your calculations it does not pay its proportion of the operating expenses including interest and taxes, does it?

A. My recollection is although I have not the figures in mind, that the total of our cattle business falls a little short of paying even the operating cost. I would not like to assert that positively.

Q. Will you turn to Mr. Ripley's figures there?

Mr. SEVERANCE: I am just looking for it.

Mr. BAXTER:

Q. Do you remember whether live stock pays a small profit over the actual cost of movement, excluding its percentage of operating expenses and excluding altogether interest and taxes?

A. Are you now referring to live stock from Kansas City or to our whole live stock business?

Q. I am referring to the movements that you embraced in that calculation, that is from Kansas City?

A. That I gave Mr. Ripley?

The COURT: Yes.

A. That is simply from Kansas City. I thought you meant the whole live stock, that is simply Kansas City.

Mr. BAXTER:

Q. Well, just taking that as a sample.

A. From Kansas City it lacks $18.77 of paying the total

1738 transportation cost, that is on the basis of the average cost; $2.56 less than the total operating cost; but shows a margin of $19.29 more than the 55 per cent. of the operating cost which I estimated as being the movement expense.

Q. Now, then, a carrier in accepting and carrying live stock from Kansas City to Chicago would not be moving that traffic at a loss?

A. No.

Q. As compared with the cost of its actual movement?

A. With the cost of its actual movement, no.

Q. But he would be moving at a loss of $2.56 if it was made to pay its full proportion of all operating expenses, is that true?

A. That is on the theory that the cost of handling that was the

average cost of handling all freight. Of course you cannot apply that to a car of cattle because that might cost more or might cost less—I can't conceive of its costing less than the average, it will cost more than the average to handle cattle, in fact that is admitted in the case, I believe.

Q. And if the carrier were to charge up against the transportation of a carload of cattle from Kansas City to Chicago not only the total operating expenses, but its proportion of interest and taxes it would fall $18.77 short of meeting them?

A. It would, yes sir.

Q. Now, will you explain to His Honor why a carrier can afford to handle traffic which pays something more than the cost of movement, although it does not pay its share of all operating ex-
1739 penses, and still less its share of operating expenses, interest and taxes?

A. There are certain amounts of expenses that go on regardless of whether we handle traffic or not; the maintenance expense is largely a question of the weather, probably eighty per cent. of it is weather, and the track is wearing down and washing out and requires to be kept up regardless of whether any trains go over it or not, it has to be kept up so that trains may go over it. Then the stations are equipped with their full forces of agents and the taking of any particular one car or two cars or ten cars of a train load, makes no difference in the cost of maintaining those agencies at the stations. There is the general expenses of organization of the road and hundreds of other things of that sort that go right along whether we take any particular business or not. The proposition often confronts a traffic manager on the movement of a lot of freight that will pay what he thinks will be, what he knows is less than the average cost of doing the business, but it will pay something more than the cost of actually moving that business, such as the coal that we burn by the engine that moves it, the wages of the train men running the train, the oil and waste that it takes, and things of that sort, the actual movement expenses attaching to the movement of that particular business, and that will not amount to so much as the revenue, and while it will not amount to the total transportation cost, while it will not pay anything on interest and taxes,
1740 and perhaps not pay its proportion of the total operating expense, it will pay something towards that, and by that amount it helps to pay the expenses so much, and they take it if they cannot get any more; but if they took all the business on that basis they would go into bankruptcy in a very short time.

The COURT: How is it with dressed meat and packing house products, do you lose money on that, too?

A. Yes, we lose money on dressed meat and packing house products. On that same basis neither dressed meat nor packing house products, nor cattle from Kansas City pay the rate which the roads could afford to do their business on. It pays less than the average cost of doing it, it is not a question of which we make the most on, but which we lose the least on.

The COURT: Which do you lose the least on?

A. We lose the most on packing house products and dressed meat.

Mr. BAXTER: These calculations that you furnished Mr. Ripley in the item of total transportation cost, I understannd you include not only the operating expenses, but interest and taxes?

A. Yes, sir.

Q. But you make no allowance for dividends at all?

A. Oh, no dividends or anything of that kind in that computation; that isn't in at all, that is a question of cost.

Q. A car load of cattle would fall short by $18.77 of pay-
1741 ing the total transportation cost including interest and taxes, but not including anything for the stockholders of the Company?

A. No, sir; not at all.

Q. How much money did the Atchison, Topeka & Santa Fe System pay out in the year 1903 for damages to live stock and to persons in charge of live stock?

A. I do not recall the figures. They are in my testimony in that case. I can furnish them if you want them.

Q. I will be obliged if you will when you bring in these other statements. I would like for you also to state the amount of revenue received by your Company for the same year for the transportation of live stock?

A. The total amount of revenue?

Q. Yes.

The COURT: When do you want this witness to come back again?

Mr. COWAN: Tomorrow or next day. There are several statements I want him to make up before he comes on the stand. I do not want him to come back at once.

The COURT: Let him come back tomorrow morning.

A recess was here taken until 2 o'clock P. M. of the same day, October 2nd, 1905.

1742 MONDAY, *October* 2, 1905—2 o'clock p. m.

Court met pursuant to adjournment.

Counsel present same as before.

Whereupon W. S. WITTEN, called as a witness on behalf of the complainant in rebuttal, having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

The COURT:

Q. What is your business?

A. Assistant General Superintendent of the Union Stock Yards and Transit Company.

Q. Stock Yards where?

A. Chicago.

Mr. COWAN:

Q. What are the duties of your position, Mr. Witten?
A. To see after the outside business, handling the stock in every shape and form.
Q. Does that include the loading of cars?
A. Loading and unloading, yes sir.
Q. How long have you been engaged in that business?
A. In this particular position or in the business of handling stock?
Q. No, in that particular position?
1743 A. I think about three years. Three years as Assistant General Superintendent.
Q. Have you ever been in similar employment at any of the other markets?
A. Yes, I have been in the employment of the Union Stock Yards Company at Omaha, Nebraska.
Q. How long were you in service there?
A. Ten years. I have been with this company ten years here.
Q. What other position did you fill with this company?
A. I was superintendent of the Feed Department.
Q. In the course of your employment have you become familiar with the loading and unloading of live stock at the yards here and at Omaha?
A. Yes sir.
Q. Are you familiar with the matter of the handling, the switching and moving of such live stock and the delivery of the cars and their return?
A. Yes, I look after that part of it at the yards, for the Yard Company.
Q. What is the average car loading in weight? of cattle here, Mr. Witten?

Mr. SEVERANCE: I object to that as not rebuttal.
The COURT: Let him answer.

A. Our records show about 23,600 pounds.

Mr. COWAN:

Q. How is that?
A. About 23,600. You mean the average to the car, do you?
1744 Q. Yes.
A. About 23,600.

Mr. SEVERANCE:

Q. That is cattle?
A. Yes sir, cattle.

Mr. COWAN:

Q. Do the shipments from Iowa run heavier or lighter than the average loading?
A. Well, they are heavier.
Q. About how much heavier?

Mr. DAWES:

Q. Do you know anything about this, did you make any figures on it?

A. Yes sir, some figures, yes sir.

Mr. SEVERANCE:

Q. Is that a matter of record?

A. Sir?

Q. That is a matter of record, isn't it, the weight of the car is a matter of record?

A. Yes sir.

Mr. SEVERANCE: I object to the witness giving any guess on it here. We ought to have the record here.

The COURT: Objection overruled. Go ahead, answer the question.

A. I could not say exactly how much, but I think about 100 pounds heavier.

Mr. COWAN:

Q. About 100 pounds?

A. That would be about a thousand pounds to the car, I mean.

1745 Q. The Iowa cattle are the corn fed cattle?

A. Yes, Iowa cattle come from the corn belt and that is where we naturally get our heaviest cattle, that would be from the Corn Belt.

Q. Now, in what period of the year are those cattle shipped mostly from Iowa, that is what time covers the heaviest receipts from Iowa?

A. Well, I could not tell you exactly but I could just simply give you my opinion on that.

Mr. SEVERANCE: I object to the opinion, if you don't know.

The COURT: Well, give your estimate.

Mr. COWAN:

Q. The best of your knowledge, your estimate.

A. Yes sir. Well, from the first of January to the first of July, the heaviest receipts would be.

Q. The first half of the year the receipts are the heaviest of corn fed cattle from Iowa?

A. Yes sir.

Q. With what are the cars bedded which come from there?

A. Well, they are mostly bedded with straw and hay.

Q. What per cent., in your judgment?

A. I should think 75 per cent.

Q. How often are those cars cleaned?

A. That is pretty hard to tell. I don't think they are cleaned very often.

1746 Q. What will the bedding weigh after the cattle are unloaded?

A. That depends largely on the condition of the car. A car that

has been cleaned out recently I should think would weigh from 200 to 500 pounds.

Q. When a car is used over and over again, how is it then?

A. Well, it is not very heavily bedded then. My experience in shipping and loading cattle is that the car is bedded very lightly and sometimes there is not any, any fresh bedding.

Q. A small amount of fresh bedding put in?

A. Yes sir.

Q. Do you bed cars here?

A. Yes, cars are bedded here, cars that we ship out are bedded by the Stock Yards Company.

Q. How do you bed them?

A. Why, we bed them——

Mr. DAWES: There is no testimony going to the bedding of the cars out of the stock yards. It is not germane to this inquiry. The question relates to the bedding, of course in here from the West.

The COURT: That is the question, I suppose that you are asking about, isn't it?

Mr. COWAN: Well, I will withdraw that then.

Q. You are acquainted with the method and manner of bedding cars at Omaha for shipment on to Chicago?

A. Yes sir.

Q. What is that?

A. We bed entirely with hay.

1747 Q. How much bedding is put in?

A. From 100 to 200 Pounds.

Q. Now are you able to state whether or not the character of the bedding and the amount that comes in here in shipments from Iowa is greater or less than that?

Mr. SEVERANCE: He has already given the figures on that in pounds. 200 to 500.

The COURT: Well, let him answer again.

A. Will you ask the question again?

(The question was then read.)

A. I think when a farmer beds the car, once in a while he puts in a little more hay in the car, but I think it would average about the same.

Mr. COWAN:

Q. How are the hogs bedded?

A. Why, in the summer time they are bedded with—Sometimes the car is clean and sometimes they are bedded with slack and sand, and sometimes I have seen some few cars bedded with clay. In the winter time they are bedded with straw or hay.

Q. Are these cars cleaned in the winter time?

A. Not very often.

Q. Did you ever have any cars cleaned here?

A. Yes, the cars are cleaned that the feeders are shipped out in.

Q. What does it cost per car to clean a car?
1748 A. I never cleaned any cars.
Q. I thought you said you had. I ask you now if you clean the cars?
A. I did not understand the question. You asked me if they were cleaned here, didn't you? I understood you to ask that, when they came in the yards if they were clean.
Q. What is the weight of the hog shipments, Mr. Witten?
Mr. DAWES: From what place?
Mr. COWAN: No, I am talking about hog shipments delivered at the yards here.
Mr. SEVERANCE: From where?
Mr. COWAN: I will ask you the question as I put it, the weight of the hog shipments delivered here at the yards.

Mr. SEVERANCE: I object to that as immaterial.
The COURT: Let him answer.

A. Do you mean——

Mr. COWAN:

Q. Per car?
A. Carload lot.
Q. Yes.
A. I cannot give you the exact figures on that.
Q. Do they run greater or less than the minimum?

Mr. SEVERANCE: I object to that as a mere guess. He says he don't know.
Mr. COWAN: If he does not know he can say so.

A. My opinion is that they run less.
Q. What do you understand the minimum to be?
1749 A. 21,000.
Q. Are they greater or less than 17,000 pounds?
A. They are greater than 17,000 pounds.
Q. How are the trains delivered here, bringing the live stock from Missouri river points to this city?
A. They are delivered by the different railroads at our chutes.
Q. Do they bring them in with their own engines and crews?
A. Yes sir.
Q. How long does it require you to unload a train?
A. About a minute to the car.
Q. About a minute to the car?
A. Yes sir.
Q. Have you got any statement showing the time of unloading of any of these roads coming in from Missouri river points?
A. Yes sir, we have a monthly statement. I have a statement showing the time of the three principal roads, the average time for unloading. That is, for the different hours during the night. I figure up the average on the largest roads here for the month, the C. B. & Q., 6259 cars at an average of one minute to the car to unload, for the month of August.

Q. For the month of August this year?
A. Yes sir.
Q. Who unloads the live stock here?
1750 A. The Union Stock Yards & Transit Company.
Q. What do the railroads do with respect to the matter of unloading?
A. They simply pull the train into the chutes and we do the rest of it.
Q. How many chutes do you have for unloading, I mean now for a train. You bring in a train of 25 or 30 cars and is there a chute for every car?
A. Yes, we have different sized chutes. Our chutes run from 18 up to 15 chutes. We have ten different sets of chutes, and we try as near as we can to adjust the size of the train to the size of the chutes.
Q. You don't unload a car at a time, you unload a whole train at once?
A. We have men stationed at each end of the train and we work with two gangs, two foremen unloading, and they come right together.
Q. How long will this train remain with the empty cars in the yards until they go back out to the Company's tracks?
A. They are pulled right out of the yards as soon as they are unloaded.
Q. Explain what your monthly statement shows and then file it as a part of your testimony with regard to the three roads you have selected.
A. Our monthly statement shows that for the St. Paul, the number of cars—it shows all cars received before 12 o'clock and the time and the percentage of the receipts. It shows the number of cars received from 12 to 4, and the time each car was—It took
1751 to unload it, to unload each car and the percentage of cars received by that road and it shows from four to six and from six to seven and from seven to eight and eight to twelve. Now, the St. Paul road receive from 6 o'clock—That means in the afternoon, 6 o'clock P. M., to 12 o'clock A. M., 186 cars. 5 per cent of their total receipts, and that was unloaded in one and one half minutes. From 12 to 4 o'clock the Milwaukee received 805 cars or 18 per cent. in one and six tenths monutes. From 4 to 6 o'clock the Milwaukee had 917 cars or 21 per cent. in one and five tenths minutes, from 6 to 7, 809 or 18 per cent. in one and one tenths minutes, 7 to 8 o'clock they had 868 cars, 19 per cent. in one minute. From 8 to 12 they had 821 cars, 19 per cent., in one and three tenths minutes. Do you want me to read off all the roads?
Q. No sir. That is an illustration of the time and manner in which the trains were delivered at the stock yards.
A. Yes sir.
Q. Now, do any of the live stock trains carry packing-house products and dressed meats into the yards?
A. Yes sir.
Q. Do you know to what extent?

A. I could not give you the number of cars, no sir. I know that we make notes of it on our train-sheet after the trains reach our yards. They have to stop and switch the packing-house prod-
1752 ucts out and it causes some delay and we keep a note of that on our records.

Q. Is it a frequent or infrequent occurrence?

A. Why, it is frequent, it occurs every day.

Q. What are the sizes of the trains of live stock which come from west of the Mississippi river into the yards here?

A. They run from 25 to 60 cars.

Q. What road brings in 60 car trains?

A. The C. B. & Q. and the Chicago, Rock Island & Pacific.

Q. Are the trains now larger than they used to be?

A. Yes sir.

Q. How does that compare with 6 or 8 years ago?

A. Well, there is quite a difference.

Q. They are heavier?

A. Heavier, there are quite a few more cars that are handled now than there formerly were.

Q. Compared with ten years ago?

A. I did not hear the question.

Q. Compared with ten years ago?

A. Well, I could not say about Chicago ten years ago. I know they are larger in comparison than with the trains in the West ten years ago. They used to run 10, 15, or 25 cars then.

Q. Are any part of the cattle which are brought in here for sale, shipped back out over the roads, which come in from the west?

A. Yes sir.

1753 Q. What trade does that apply to?

A. What we call the "feeders," it is the "stockers and feeders", largely, both sheep and cattle. Very few hogs, in fact, you might say there are not any hogs shipped back, but cattle and sheep are shipped back.

Q. In the annual report of the Union Stock Yards & Transit Company there appears two columns on each page; two paragraphs one is receipts, and the other shipments?

A. Yes sir.

Q. Have you the report there before you?

A. Yes sir.

Q. Take as an example, the Burlington on page 21.

A. Yes sir.

Q. How many cars were shipped in during the year 1904?

A. 55,365.

Q. How many were shipped out?

A. 2,360.

Q. The Burlington only comes in from the West?

A. Yes sir.

Q. It has no lines eastward?

A. No sir.

Q. What class of live stock was this that went back out?

A. Largely cattle and sheep. It gives the exact head there, 55,800 cattle, 1,300 calves, 16,900 sheep, and 902 horses.

Q. So that there is a use for stock cars both in and out, coming from the west, going back out, for live stock?

1754 A. Yes sir.

Q. Your annual reports shows the facts with respect to each one of the lines in the same manner, does it not?

A. Yes sir.

Q. Do you know how that is at the Omaha yards?

A. Why, there is a larger percentage shipped out of the Omaha yards.

Q. Where was the principal feeders, where do the principal feeders from the Omaha yards go?

A. They go to Iowa, the larger per cent., there and Nebraska. I think they are about evenly divided.

Q. Now, where is the largest feeder market and the most live stock shipped out?

A. I think Chicago is. I have not the exact figures.

Q. What is the light weight of the cars?

Mr. DAWES: What kind of cars?

Mr. COWAN: The light weight when cleaned, stock cars?

A. They run from 26,000 to 32,000 pounds.

Q. Who pays for the bedding in case of the feeder shipments either from here or the Missouri river?

A. The man that ships the stock out pays the Stock Yards Company for the bedding.

Q. Hogs shipped in in the winter time, are they bedded with hay or straw?

A. Yes, generally with hay and straw.

1755 Cross-examination by Mr. DAWES:

Q. When you say it takes a minute or a minute and a half to unload a car, that is, after the cars have been set at the chute, isn't it?

A. Yes sir.

Q. You have not taken into account any delays at all in bringing the stock up to the chute?

A. No sir, not in that figure.

Q. As a matter of fact there is—your tracks are very much congested on Mondays and Wednesday mornings?

A. Sometimes, yes sir.

Q. Isn't it the usual thing——

A. No sir.

Q. Wait, I have not finished my question. Isn't it usual for a train of stock coming in there to you, trains of stock on other roads, that they meet trains of stock on other roads waiting for the same chutes, so that they are delayed anywhere from one to three hours?

A. Not that much, no sir.

Q. Well, how much?

A. Well, it would not average an hour.

Q. Well, it would average an hour, wouldn't it?

A. I don't think it would.

Q. Delays of from one to three hours are extremely common, are they not?

A. They have occurred, yes sir.

1756 Q. They occur more than you like to have them or the railroads like to have them?

A. Yes sir.

Q. As a matter of fact, it is a fact that your facilities at the stock yards for the handling of cattle on Monday and Wednesday morning—that it, as I understand when the great rush of receipts comes in, is it not?

A. Yes sir.

Q. —they are inadequate to handle the cars that are in there except with considerable delay?

A. We could handle the cars as fast as they are received if they would come regularly, but if you bring 2,000 cars and deliver to us, to our yards, it is 2 or 3 hours in getting them unloaded.

Q. Does not the stuff come in from these various roads to the stock yards between substantially the same hours? Haven't you got your stock from the C. B. & Q. and the St. Paul and the Great Western and all these roads, don't you get it within three or four hours?

A. Well, no sir, there are times—It depends entirely on the weather conditions.

Q. Well, within those general limits.

A. Of course, we are the busiest handling more stock between 6 and 8 or 10 o'clock but we have the same chutes for handling that stock from 12 o'clock on.

1757 Q. As a matter of fact, the trains coming in and getting in there between 5 and 6 o'clock in the morning, it is your desire and the desire of the shipper to unload that stock in time for that morning's market?

A. Yes sir.

Q. And that makes a very serious congested condition between those hours?

A. Yes, it makes lots of business.

Q. So that when you say it takes a minute and a half to unload a car, is that a fair statement of the amount of time consumed and the amount of delay to the railroad company with reference to that delivery?

A. All that refers to is the time that it takes to unload the stock, the time consumed in unloading after the car is put at our chutes.

Q. The tracks—the stock yards run their own tracks, don't they?

A. Yes, they are covered by the Stock Yards Company.

Q. So the railroads themselves, they have no control over the movement of their trains or the way in which they shall run in after they get into the stock yards?

A. After they get onto our switches.

Mr. BAXTER:

Q. Sometime ago, some years ago, the Union Stock Yards published statistics showing the number of cattle and hogs received at

the stock yards during each year from each of the states from which live stock comes to Chicago, did it not?

1758 A. I never saw a report of that kind?

Q. You do not keep a record of that kind?

A. Not by states, no sir.

Q. And never did?

A. Not to my knowledge.

Q. Are you engaged in the book-keeping department of your company?

A. No sir, I am in the operating department, on the outside.

Q. Will you, as a representative of your company and the only one that has been put on the stand yet, file a statement here showing the number of hogs and cattle received at the union stock yards during the years 1901, 1902, 1903 and 1904 and during the first seven months of 1905, from Iowa, Missouri, Kansas, Nebraska, Minnesota and North and South Dakota?

A. I don't believe we could do that without a great deal of time and work. We would have to go back through all the bills. I don't know whether that could be done or not.

Mr. COWAN: I think Mr. Thompson will supply that.

Mr. BAXTER:

Q. Can you state how much time elapses from the time a train of live stock brought to Chicago, for instance, by the Chicago, Milwaukee & St. Paul, arrives at its point of intersection with the delivering line, until the same train is returned to the rails of that company?

1759 A. No sir, all I keep a record of is the time that it reaches our tracks. I watch that very closely until it reaches our chutes and is unloaded.

Q. None of those railroads, as I understand own tracks running into your yard?

A. No sir.

Q. They connect generally with some belt road, do they not?

A. With our terminal, yes sir, the Chicago Junction.

Q. In some instances, one of those roads (as, for instance the St. Paul) may connect with the Pennsylvania Road, and its trains of live stock pass for a part of the distance over that road?

A. Yes sir.

Q. Now, then, that road will connect with your road and from there on into the stock yards?

A. Yes sir.

Q. When you are talking about handling stock at the rate of a car load a minute, you don't mean to create the impression on this court that it is one minute per car from the time the Milwaukee & St. Paul brings the train out to its terminus here until it gets the cars back?

A. No sir, I mean from the time the train is set at our chutes until it is unloaded.

Q. Don't you know that in the case of that company it sometimes takes two or three or four or five hours to get its cars back?

UP TO CLOSE IN CENTER

A. There have been cases of that kind but it won't average more than an hour.

Q. One further question. Your company is interested in
1760 this case, is it not?

A. I don't know.

Q. Your company feels that it is injured by reason of the live stock being diverted from Chicago?

A. I should think they would, though they never said anything to me about it.

Q. What does the interest of your company in this matter consist of? The only interest in this live stock that you have is that you charge for feeding them and unloading them, do I understand correctly?

A. Yes sir.

Q. And you charge for feeding them and watering them while they are here?

A. Yes sir.

Q. And if it is shipped off for feeding purposes, you charge for bedding and re-loading?

A. Yes sir.

Q. And, that is the extent of the interest that your company has in the question as to whether these live stock rates are too high or too low?

A. I can just speak from my own opinion, of course; I am not expressing the opinion of anyone else, but only my own. I should think that it would discrimminate against our market, that we would be in favor of lower rates.

Q. Your company would have no interest in the markets here except in so far as it carries grist to your mill?

A. I did not understand.

1761 Q. The Union Stock Yards Company has no interest in the Chicago market either in building it up or tearing it down, except what you get out of the handling of the stock that comes here for you?

A. We are anxious to see the market grow, and we would not like to see it discrimminated against.

Q. Isn't the reason that you are anxious to see it grow, that you may get the money that you may derive from the sources I have indicated?

A. Yes sir.

MR. DAWES:

Q. You stated that a stock train of 60 cars came in over the Burlington and St. Paul.

A. No, the Rock Island.

Q. Well, the Burlington and the Rock Island. How often does that occur?

A. That large a train does not occur very often.

Q. How often?

A. We very seldom have a train of 60 cars, but we have 45 and 50.

Q. How many trains of 60 cars did you ever see come in?
A. Three or four.
Q. In how long?
A. They have only been hauling these large trains for the last few years.
Q. You have seen four trains in two years and you desire to give the impression here that the Burlington hauls in 60 car trains?
A. I did not say that, I said they ran from 25 to 60 cars.
1762 Q. What is the average cars that they run in?
A. The average train, I should think would be 45 or 50 cars.
Q. The average?
A. The average train coming from the west. I don't mean the trains that come in with a full train of stock.
Q. I am talking about the full train of stock.
A. Well, a full train of stock, that is what—not a train that comes in mixed up with other stuff.
Q. Well, they load an average of 25 to 30 cars?
A. No sir, between 40 and 50 cars.
Q. Do you know whether those trains have been brought in as one train from western points, or whether they have been consolidated at Hawthorn?
A. All I know is what the shippers tell me.
Q. What other knowledge have you about it, do you know whether those trains were brought in from some far western point of origin or whether they were consolidated in the yards and sent to the stock yards from there?
A. All I know is what the shippers tell me. They might have been made up before they came to our terminal.
Q. So you don't know anything at all, do you, about the number of cars in the through trains of the Chicago, Burlington & Quincy?
A. I know what they tell me. I have never seen it, I
1763 have never been out on the road.
Q. That is true of the Rock Island trains, too, isn't it?
A. Yes sir.

Mr. Severance:

Q. Have you any record down there to show the number of cars per train that come into your yard?
A. Yes sir.
Q. You have that record?
A. Yes, we could not show what percentage came from western points, we could not show that but we can show the number of cars.
Q. As a matter of fact, the trains that come into your yards are simply trains that are switched in there from terminals?
A. Yes sir.
Q. And they are not pulled in there by the engine that pulls the train into Chicago?
A. A great many of them are, yes sir.
Q. As a rule they are not, are they?

A. I couldn't say what per cent. The Milwaukee and some of the roads come right on with some of their cars.

Q. Well, the Burlington don't, does it?

A. I could not tell you.

Q. The Chicago, Rock Island & Pacific, don't, do they, and the Chicago & North-Western?

A. The North-Western comes in with regular trains, I mean they don't use a switch engine. It is a regular road engine that
1764 comes in. The Rock Island, I think are coming in now. They formerly came in with their switch engines.

Q. You have no means of knowing what state the cattle come from that come in there?

A. No sir, I have not outside of the bills. It could be looked up.

Q. Whether a train comes from Kansas or Missouri or Iowa, you don't know whether it comes from one state or another?

A. Not without I hear from the shippers. I know something about it, I know the division on the Milwaukee and on the North-Western, I know what division it is. I get a train report showing that. I know what division that train is off of. The Milwaukee might be off of what they call the Missouri River Division and the other might be off of the Wisconsin Division.

Q. What is the Missouri Division?

A. It is the line that runs between Omaha and Chicago.

Q. Then the cattle might come from anywhere in Illinois or Iowa?

A. Yes sir.

Q. How do you know that Iowa cattle weigh a thousand pounds more than the others, if you don't know anything about what State these cattle come from.

A. I know Iowa cattle that I have seen are, as a class heavy cattle, corn-fed cattle.

Q. As a matter of fact, you don't know anything about it,
1765 do you?

A. I think I do.

Q. You don't know what state those cattle came from?

A. I know a good deal about the states.

Q. Therefore, it is your opinion that you give that they weigh a thousand pounds to the car more than other cattle, that is something that you don't know anything about?

A. I think I do, as much as any of the men down there.

The COURT: You could make a very good guess at that yourself, couldn't you? That corn-fed cattle coming from Iowa weigh more than they do coming from Texas?

Mr. SEVERANCE: Do they weigh any more than they do when they come from Nebraska and Missouri and Illinois, your Honor?

The COURT: That is something everybody, I thought knew.

Mr. SEVERANCE: Maybe the Court can take judicial notice of that, but I did not know it.

Q. You stated here that 75 per cent. of the cattle that come in are bedded with hay and straw. What is the other 25 per cent. bedded with?

A. Sand.

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Q. How much sand to the car?
A. It varies a great deal, it would be pretty hard to give an idea of it.
Q. You can guess on that as well as on all these other things.
1766 A. Freshly bedded sand car would weigh from 300 to 700 or 800 pounds.
Q. Is that all?
A. We bed a great many hogs with sand and we don't put it in quite as thick as they do, the farmer does.
Q. How thick do you put it in?
A. About half an inch.
Q. How much does it weigh?
A. I never weighed it.
Q. Do you know anything about it?
A. I have an idea.
Q. How did you get your idea?
A. I got my idea from the shovelfuls of sand that are put in.
Q. How much does it weigh per shovel-ful and how many shovels-ful do you put in?
A. I did not intend to give you the exact weight.
Q. It is a mere guess?
A. I see it every day.

The COURT: Has anybody else weighed it? It is a guess with all of them, isn't it, it is a guess with all of them.
Mr. SEVERANCE: No, your Honor, I think not.
The COURT: I remember one man talking about the number of yards, bu- the court is inclined to think just as well of the man who has not the nerve to say that he does not absolutely know about everything as he does of the man who pretends to know it all.
Mr. SEVERANCE: I don't mean to be insulting to the wit-
1767 ness or of course to your Honor, but I think your Honor will recall that Mr. Gardner at least testified that he knew what it took because they hauled the sand in by the carload to these points where the cars were bedded and he told the number of tons per carload taken taking the average carload itself.
Mr. COWAN: Mr. Gardner, you say claims that he knew the number of yards he put in?
Mr. LYNDE: He knew the weight.
Mr. DAWES: He did not claim to remember the number of shovels full.

Mr. SEVERANCE:

Q. You say that the cars are not cleaned very often?
A. No sir.
Q. How do you know that?
A. By the books of the car.
Q. Well, none of the cars are cleaned at the stock yards, are they? They are taken back in the country and they have gone back down the road again and been bedded again and cattle have been moved in them after they are cleaned.

TO CLOSE IN CENTER

A. I tell you how I judge that. I have seen lots of cars that I did not think had over 100 pounds of bedding in them. I know those cars had been cleaned out right recently.

Q. Is that the only way you can judge?

1768 A. That is one of the ways and my general observation. I am along the chutes a great deal and I pay a great deal of attention to all the minor details of the work, of all kinds.

Q. Suppose a car comes in loaded with cattle, it is unloaded and in the case of the North-Western Road, it is taken out to a point on the Mississippi river, at Clinton.

A. Yes.

Q. And the bedding is taken out, that is, the stuff is cleaned out.

A. Yes.

Q. And it is re-bedded?

A. Yes sir.

Q. It goes back to a point over in the Missouri valley.

A. Yes.

Q. It is loaded with cattle and comes into Chicago again and the offal accumulates. Can you tell us whether that car has gone through that operation or whether it has made two trips without being cleaned?

A. I believe I can tell whether it had only made one trip. If it made one trip after it made the first trip, I don't believe I could tell, but I believe I could tell otherwise.

Q. You are not very sure of that, are you?

A. I think I could tell. I have observed quite a few of the cars that have very little bedding in them.

Q. You said a little while ago that the average would be about an hour's time consumed in getting from the tracks of the various roads up to the chute?

1769 A. Yes, that is considered, taking in the congestion that we have.

Q. You say it would average about an hour?

A. In my opinion, yes sir.

Q. Going from the terminals of the roads up to the chute and unloading?

A. Yes sir.

Q. Then you also said a little later that the average would be about an hour getting out of there, getting it out again?

A. No, I did not say anything about that.

Q. You were asked that and you said an hour just the same. What is the average time consumed in getting it up to the chute and getting it back onto the roads again.

A. I know we are delayed some in getting it back on account of the roads not taking the cars back promptly, we have that trouble with the C. B. & Q.

Q. Well, without trying to blame the railroads for anything just try and answer my question. Of course, we understand you people are not to blame for anything. I am asking you to give your best judgment as to the average time consumed from the time the

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stock train leaves the railroad, to get it to your chutes and unload it, and get it back onto the railroads again?

A. I will say that I never paid any attention to it after the trains are unloaded, but I have watched very closely and I know that we have some trouble at 19th street and at the different terminals
1770 caused by the different roads. Of course, after they are unloaded, I am not interested in them particularly.

Q. You don't know anything about it, do you?

A. No sir, I don't know anything about how long it takes to get back.

Mr. LYNDE:

Q. You spoke about the North Western trains being moved not with the regular engines or was it being moved in with the regular engine? What did you mean by that?

A. I mean it is not a switch engine, it is a road engine.

Q. It is a large sized engine, not a regular switch engine?

A. No, not a regular switch engine.

Q. You don't mean by that that they don't change crews? You don't profess to know anything about that?

A. No sir.

Q. I notice in your statement of the Union Stock Yards Company—your attention was called to that, I believe—something in reference to the shipments out of the yards?

A. Yes.

Q. Now, there is quite a movement up into Wisconsin, to Cudahy's plant, isn't there, don't they buy a good deal of stuff here?

A. They buy some here.

Q. And that all goes out of the yard here?

A. Yes sir.

Q. And that all appears in these statements of the number
1771 of shipments out?

A. Yes.

Mr. DAWES:

Q. Are there any statistics at the stock yards showing further the length of stock trains shipped in there?

A. No sir. We have the average statement, a statement showing what the average is for each day.

Q. But that does not show the average number of cars per train, does it?

A. Yes sir, the average train, we average that for each day.

Q. Take that average for the month, take this month of August that you talk so much about?

A. Yes.

Q. Will you give us the average of trainloads for that month?

A. I will.

Q. I mean the average of the length of the trains, the number of cars in a train?

A. Yes, I will.

Mr. SEVERANCE: Bring the figures with you.

A. Yes.

TO CLOSE IN CENTER

Mr. DAWES:

Q. Are they made for each company?

A. I can make them that way, for each company. If you are just asking for one month and will give me a couple of days to work it up.

Mr. LYNDE: It is the same month that you referred to, giving the time of unloading at the chutes. That was August, wasn't it?

1772 A. Yes, that was August.

Mr. COWAN: Mr. Dawes, if you would permit just a suggestion from me, the statement of your train conductors' reports out of the Galesburg yard, will fix that exactly.

Mr. DAWES: I know, but he has testified so widely different from the testimony already given by us on that subject that I want to see what his records state. Mr. Rice testified that our cattle trains averaged 30 to 35 cars,—they did not average that, even.

Mr. COWAN: From Galesburg to Chicago?

The WITNESS: I don't say that they would average that, all trains.

Mr. DAWES: You picked out the biggest train your ever heard of, four big ones, isn't that so?

Mr. COWAN:

Q. You stated from 25 to 60 cars.

A. Yes.

Q. Now, when you stated that a stock train coming from the west would run from 40 to 50 cars, you had reference to the average stock train with through freight, other freight?

A. Yes sir.

Q. That were brought in here?

A. Yes sir.

Q. When you make up your statement, separate as nearly as your information goes, trains of that character and the trains in

1773 which dead freight was brought in, if you can do it.

A. I don't think I could on all of it. I can in some cases. It shows the dead freight cars that each live stock train brings in.

Q. Now, you said the average time of a train from the point of reaching your tracks to the delivery back, would run something—I have forgotten whether you said it would be an hour up to the chutes on the average, or an hour to the chutes unloading and back to the railroad track?

A. I meant that it would not average over an hour from the terminals to our chutes.

Q. You don't know what time it takes to go back?

A. No sir.

Q. I will ask you if you were not requested to make, and if you did not make at very great labor, a statement showing the average time, taking certain days in the month during some entire years, for the Interstate Commerce Commission, in the Texas Cattle Raisers case and if from that you won't be able to state what the average time was on those days, of the different roads?

A. Yes sir.

COPY BOUND TO

Q. And that is the time they come onto your tracks till the cars went back off of your tracks to the railroad company?
A. Yes sir.
Q. You are not in any way connected with the manage-
1774 ment of the Stock Yards Company?
A. No sir.
Q. You were subpœnaed up here as a witness by a subpœna from this court, were you not?
A. Yes sir.
Q. You have had no information and no direction whatever from the management of the stock yards in any way?
A. No sir.
Mr. DAWES: Why don't you ask him these questions?
The COURT: What do you say about that, have you?
A. No sir.

Mr. COWAN:

Q. Are you speaking for the Stock Yards Company in any way?

Mr. SEVERANCE: I object to that.
Mr. COWAN: We simply got him up here with a subpœna that is all and asked him these questions, and he told us what he knew about it. There has been no communication whatever between us and the Stock Yards Company about it and in justice to the witness I want to state that he is not here speaking for the company.
Mr. SEVERANCE: Can the witness explain a lot of figures on this statement? None of us seem to be able to make out what they mean.
(Statement handed to witness.)
1775 The WITNESS: This is the per cent.
Mr. SEVERANCE: Wait a minute, we want to get this in the record. On this statement that you filed we will take the first column across. St. Paul, before 12,186 cars, 5—(1.5), what do those figures mean?
A. 5 means 5 per cent. of the receipts came in before 12 and 1.5 means that that is the time it was unloaded in.
Q. You mean that is the length of time it stood at the chute?
A. It took that time to unload at that time in the night.
Q. 1.7 and 1.3, that is what those figures mean?
A. That is the average for the month.
Q. That is what is meant by those figures in the second line in each subdivision of this statement?
A. Yes sir.

Mr. DAWES:

Q. If there are 30 cars in a train, at one minute and a half it makes 45 minutes to unload?
A. Yes sir.
Q. So instead of a minute and a half it is 45 minutes?
A. It would be in that case, but I said the general average. You see the C. B. & Q. cars were unloaded faster.

TO CLOSE IN CENTER

The COURT:

Q. How many men do you have unloading a train of 30 or 45 cars?

A. Well, it varies. We work on each one of our platforms
1776 about 30 men.

Q. You can unload 30 cars at once?

A. No sir.

Q. How many men does it take to unload a car in a minute and a half?

A. We use about 16 men on the platform. The men go along and open up these doors, the car doors and the rest are driving the cattle out. Each man does certain particular work.

1777 Mr. DAWES:

Q. These are unloaded as trains, so, of course, that train cannot move out of there until the last car is unloaded, and that will be 45 minutes after the train gets in there?

A. Provided it is one and one-half minutes yes.

The COURT:

Q. It don't take 45 minutes necessarily. They may unload a dozen cars at once.

A. There are lots of times that we average a train in less than a half minute to the car. It depends entirely on conditions. If we have a large train of double deck sheep cars, sometimes we have a train of western cattle, that we have to take ropes to pull them out of the cars.

Q. What time do you think is the average for them?

A. I have just averaged up the C. B. & Q. and they average a minute to the car.

Mr. SEVERANCE: What are those figures up there for, before the parenthesis?

A. Five per cent. of the total receipts.

Q. That is to say 186 cars?

A. Say five per cent. of the Chicago, Milwaukee & St. Paul cars for that month.

Q. That is five per cent. of the total receipts for the month?

A. Yes sir.

Q. You have 186 cars for the Milwaukee Road?

A. Yes sir.

Q. It takes a minute and a half to the car, that will be nearly 300 minutes to unload these 186 cars. That is right, isn't it,
1778 a little under five hours?

A. A minute and a half to the car.

Mr. LYNDE:

Q. Does each Road use separate chutes?

Mr. SEVERANCE: Just a moment. A minute and a half to the car, and 187 cars, it would be a little less than five hours?

A. Half of 186 is forty-three——

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Q. It would be more than 43, wouldn't it? It would be 93 at least?
A. 93—279 minutes.
Q. That is a little under five hours?
A. Yes sir.
Q. So that instead of unloading these 186 cars in a minute and a half as was my impression, it takes nearly five hours to do it? That is right, isn't it?
A. Yes, that is right.

Mr. LYNDE:

Q. Does each road have separate chutes in your yard?
A. No sir.
Q. You say you have ten separate sets?
A. Yes sir.
Q. Does that mean that when one road is unloading at one chute that the other nine are open for other roads?
A. No sir, the chutes are all kept full during the time we have the trains. We take each train in its turn. The train that is in first comes in next to the first empty chute.
Q. Only one train can be handled at a time at a chute?
A. No, sometimes we set two or three trains at one chute.
1779 Q. How many cars can you accommodate in your chutes at a time?
A. In our chutes at a time?
Q. Yes sir?
A. Something over 400 cars.
Q. In one chute?
A. Oh, no.
Q. I mean in a single chute.
A. Our chutes as I say run from 18 to 50 chutes.
Q. 50 cars?
A. 50 cars that would be.

Mr. LYNDE: That is all.

Mr. COWAN:

Q. How many trains are you unloading at once?
A. Well, we are unloading ten or sometimes more.
Q. Why do you say it takes five hours to unload these cars received there by the Milwaukee & St. Paul?

Mr. SEVERANCE: I object to that, cross examining his own witness.
The COURT: I guess he had better explain that.

A. Well, I did not say it took five hours. It takes that many minutes.

Mr. SEVERANCE:

Q. A little less than five hours?
A. It might have been on several trains.
Mr. COWAN: You added the time of each train to the other train?

TO CLOSE IN CENTER

A. Yes sir, our average time for 186 cars was a minute and a half to the car.

Q. Then with thirty cars it would be ¾ of an hour that that train was at the chutes?

A. What is that?

Q. If it was a thirty car train it would be 45 minutes at

1780 the chutes?

A. Yes sir.

Q. May there not be another train at another chute at the same time?

A. Yes sir.

Q. And so on?

A. Yes. We might have unloaded them all in thirty minutes if they had been there.

Mr. SEVERANCE: You don't mean that, do you?

A. Ten times three.

Q. Well, you just said 45 minutes.

A. If they were set in to the chutes we could unload ten trains.

Q. Are you familiar with the unloading at other markets?

A. With the Omaha market, yes sir.

Q. Is there any other place or any other freight that would be unloaded as promptly and the cars released, as live stock shipments coming to the yards here at Chicago?

Mr. DAWES: That is objected to. He has not shown any knowledge of any other freight in any way.

The COURT: Objection sustained.

Mr. RANSOM:

Q. These feeders that are shipped out from Chicago are kept for a certain length of time and fed and practically all of them returned to the yards, are they not?

A. Most of them that are shipped wes- are, yes sir.

Q. Those that are shipped east, where do they go?

A. Some of them return, and a great many of them are shipped on further east.

1781 Q. What percentage of the feeders shipped out of the Chicago yards are returned to them?

A. Well, I could not tell you exactly.

Q. Do you know how many cattle and hogs, how many heads of cattle and hogs are daily held over in the yards in Chicago and not sold?

A. No sir.

Q. Say for the last year?

A. No sir.

Q. There are cattle and hogs held over daily, are there not?

A. Yes sir.

Q. Every day?

A. Not every day, no sir. There might be one or two head.

Q. What day in the week is there that there is not some held over?

A. It depends on the market.

Q. How many was the greatest number of hogs you held over during the last twelve months say?

A. I could not tell you.

Q. You don't know anything about it?

A. No.

Q. Do you know how many cattle were held over?

A. No sir.

Q. Do you know the largest shipment of cattle received in the stock yards during the last two weeks?

A. Do I know the largest shipment received?

Q. Of cattle, yes?

A. Do you mean in any one day?

Q. Do you know the largest number of head of cattle which came in on any one day or what day the largest number came

1782 in and what it was?

A. I know approximately, yes sir.

Q. What was the largest?

A. I think it was last Monday a week ago that we had—I don't believe I could tell you exactly, but I could tell you approximately.

Q. Don't you know that one day within the last two weeks that you had a greater number of cattle received into the Union Stock Yards in Chicago than had been received for several years?

A. No sir, you are mistaken. We had the most cattle received in one week, 93,000, but we did not break the record at all, not by ten thousand.

Q. That was in the last two weeks?

A. Yes, in one week.

Q. That is the largest shipment you have had for some time?

A. It is the second largest week we have ever had. That was not in one day. It was in 1903, the largest, I think it was September, 1903, we had 44,400 and some odd cattle.

Q. How many?

A. 44,000.

Q. Well, you had 93,000 in the last week?

A. In one week. The most we ever had was 95,000 in 1891, September.

Q. That is the only time that that record was beaten. Do you know the average number of cattle received in the Union Stock Yards here in the last twelve months, daily?

A. I do, yes sir, from our report.

Q. How many?

A. 21 to the car.

Q. 21 what?

A. 21 cattle to the car.

1783 Q. I did not ask you that. I asked you the number of cattle received each day for the last twelve months?

Q. I could by figuring it. I have the figures here. If you want me to stop to figure, I can do so. 3,500,000——

Mr. SEVERANCE: You don't mean you received that many cattle with these discriminatory rates, do you?

A. The books will tell just exactly how many cattle were received.

Mr. COWAN: We will offer that book as a part of Mr. Witten's testimony, the Union Stock Yards report.

Mr. RANSOM:

Q. Where could we inquire for this information as to the number of cattle and hogs held over daily for the last twelve months?

A. We don't keep any record of the cattle. There is a published report of the hogs held over, but it is not correct at all. They count the hogs that are left in the yards, but a great many of those are already sold. The speculators buy a great many hogs that are held in the yards and sold, and the report of held-overs is not correct.

Q. The Stock Yards don't—the speculators don't buy until the packers get through, do they?

A. Yes, they buy in the morning, the first thing, sometimes.

Q. Do they buy the fat hogs?

A. They buy all classes.

Q. Do they buy the fat cattle?

A. They don't buy them as much as—Some people buy all classes.

1784 Q. Whom do the speculators sell the fat hogs to that they buy?

A. They ship them east and sort them out and sell them to whoever they can.

Q. They don't sell them to the packers, do they?

A. Yes sir.

Q. The packers allow them to buy them and then they pay them an advance on them?

A. I don't know whether they pay them advance,—they have to take that chance.

Mr. COWAN: I will just waive putting that statement in, as a part of your testimony, and put it in with Mr. Thomas' testimony. I wish you would leave us a copy of the report here. We may need an extra one.

Mr. JEFFERIES:

Q. Isn't it a fact that your business is growing all the time out there?

A. We hope it is, but we have not broken it for several years.

The COURT:

Q. How is that?

A. There was a time when we received more stock than we are now receiving for the whole year.

Q. What time was that?

A. I can tell you when we had the largest receipt of stock in one year. The largest receipt of stock in one year was in 1892, or 1890, 311,000 cars in 1900.

Q. In 1894 you dropped off on account of the strike?

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A. Yes. The largest number of cattle ever received in one
1785 year, was in 1892, the largest number of hogs was in 1898.

Q. It was during the war, I believe, at that time, the Spanish War.

Mr. SEVERANCE:

Q. How does 1901 compare with 1903?

A. I can give you the statement, show you exactly. 1901 I can give you the cars, but I cannot give you the cattle. 1901 we had 3,031,000, 1904, 3,432,000.

Q. Then you had more cattle after these alleged discriminating rates were put in than you did before. How about the hogs?

A. 1901, 8,290,000; 1903, 7,325,000. In 1901 we received 8,290,000 hogs. In 1903 we received 7,325,000 hogs.

Q. 1904 was the strike year?

A. Yes sir.

Q. That is all.

1784*a* J. A. Spoor, President. A. G. Leonard, General Manager.

The Union Stock Yard and Transit Co. of Chicago.

J. H. Ashby, General Superintendent.

UNION STOCK YARDS,
CHICAGO, *Sept. 26th*, 1905.

Mr. A. G. Leonard, General Manager.

DEAR SIR: Herewith report of the time of arrival and unloading of cars of live stock for the month of August, 1905.

Also showing the number of cars and percentage of cars received between the hours mentioned, and the time per car unloading in brackets.

R. R.	Before 12.	12 to 4.	4 to 6.	6 to 7.	7 to 8.	8 to 12.
St. Paul.....	186 cars 5-(1.5)	805 cars 18-(1.6)	917 cars 21-(1.5)	808 cars 18-(1.1)	868 cars 19-(1.)	821 cars 19-(1.3)
C & N W.....	379 cars 9-(1.7)	567 cars 14-(1.6)	800 cars 20-(1.2)	475 cars 12-(1.3)	811 cars 12-(1.)	1036 cars 25-(1.3)
C B & Q.....	886 cars 14-(1.3)	521 cars 9-(1.5)	952 cars 15-(1.1)	963 cars 15-(.9)	1061 cars 17-(.9)	1876 cars 30-(1.)
C R I & —	137 cars 6-(2.1)	49 cars 2-(1.5)	344 cars 16-(1.2)	331 cars 15-(1.2)	683 cars 31-(.9)	660 cars 30-(1.)
Ill. Cent.....	105 cars 6-(2.)	42 cars 3-(1.5)	819 cars 50-(1.5)	478 cars 29-(1.1)	148 cars 9-(1.2)	57 cars 3-(1.5)
Total.....	1693 cars 9-(1.5)	1984 cars 11-(1.6)	3832 cars 21-(1.3)	3055 cars 16-(1.1)	3571 cars 19-(1.)	4450 cars 24-(1.1)

Respectfully,

J. H. ASHBY,
General Superintendent.

Exhibit — to Widden, trans., p. 1784.

D TO CLOSE IN CENTER

M. P. BUEL, called as a witness on behalf of the complainant in rebuttal having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. Where do you reside?
A. Chicago.
Q. What is your business?
A. Live stock commission business.
1786 Q. Are you in any other business besides that?
A. I handle some cattle and live stock that I own.
Q. What do you mean by that, that you own and pasture?
A. Yes sir, and I feed them sometimes in wintertime, and graze them in summer.
Q. How long have you been engaged in that business, Mr. Buel?
A. More than thirty years.
Q. What is the name of your firm?
A. Edwin Snyder, Buel & Company.
Q. Where does that firm do business?
A. Chicago, Omaha, Kansas City, St. Louis, Fort Worth, Texas.
Q. Is it a matter of any importance to you, so far as your commissions are concerned whether the shipper, which is a patron of your firm ships to you at one of the places or at the other?
A. It does not.
Q. How many commission firms dealing in Chicago are likewise dealing in these other markets similarly situated to you, so far as their interest in the matter of commissions is concerned.

Mr. SEVERANCE: I object to that as immaterial.
The COURT: Go ahead.

A. I could not state definitely, but I would suppose that one-third of the firms in Chicago have connections or offices in various other markets.

Mr. COWAN: In such manner that it is immaterial to which
1787 place their patrons ship?
A. I so understand it.
Q. To what extent are those commission firms engaged in this business aside from the mere matter of receiving live stock upon consignment, and selling it upon the market, what other services and business do they perform in connection with their business?

Mr. RANSOM: I object to that. If they are money lenders, that business is not regulated by the terms of the Act regulating commerce. That is about what it will be when it comes out, and I don't see why we should go into that. I object to it as immaterial. They don't allege anything of the kind in their complaint before the Interstate Commerce Commission.
The COURT: Well proceed.

A. Many of the commission firms are loaners of money and interested in securing the best possible price for the cattle upon which they had made loans for their customers. It sometimes happen

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that they loan more money than his stock brings, even if sold in this market.

Mr. COWAN: What amount of money do some of the large commission firms have out.

Mr. DAWES: I object to that.

Mr. COWAN: Supplying the owners and feeders and shippers of live stock the means to carry on their business?

1788 Mr. SEVERANCE: I object to that as incompetent, irrelevant and immaterial.

Mr. RANSOM: I join in that objection.

The COURT: Let him answer. He shows that they are cattle men as well as commission men.

Mr. SEVERANCE: That would not make them cattle men.

The COURT: I may have loaned money on stuff, as much as it is worth.

Mr. SEVERANCE: Well, then anybody that held a chattel mortgage would be engaged in the same business that his debtor was.

The COURT: Answer the question.

A. A number of the commission firms loaned sever-l millions of dollars to their patrons who take charge of and handle and mature those cattle.

Mr. COWAN:

Q. What position do you hold now with respect to the live stock exchange at Chicago?

A. I am president of the Chicago Live Stock Exchange.

Q. What is that exchange?

A. It is an organization made up of buyers and sellers and purchasers of live stock.

Q. To what extent are the members of this Exchange interested either as owners or otherwise in live stock this side of the Missouri River, in Iowa, Missouri, Minnesota, and Wisconsin?

Mr. SEVERANCE: I object to that as incompetent, irrelevant

1789 and immaterial.

Mr. RANSOM: It is objected to also that it is not rebuttal.

The COURT: Overruled, let him answer.

A. Will you kindly read that?

(The pending question was then read.)

A. Well, I could hardly answer definitely, because they are interested in various deals and the movement of the live stock to this market from those points.

Mr. DAWES: Then I object, if he don't know. He says he c[illegible].

The WITNESS: The percentage that they would have money loaned upon or were owners of, I could not give.

Mr. COWAN:

Q. Are many of them owners and raisers of live stock in this territory we have mentioned?

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A. Yes, a great many of them.

Mr. SEVERANCE: Give us a chance to object to these questions. It is not rebuttal. It is immaterial and irrelevant.

The COURT: Objection sustained. Go ahead and tell if you know.

Mr. SEVERANCE: Is the ruling that the objection is sustained?

The COURT: Yes.

Mr. SEVERANCE: Then I move to strike out the answer.

The COURT: The objection to the question was that it was leading. You can go ahead and tell what you know about it.

1790 Mr. COWAN:

Q. You can tell what you know about the matter as to how many of them there are that are interested as owners of live stock in this territory?

A. I know from conversations with many of the members of our Association, I would say at least fifty, that I have discussed the subject with and know that they are owners of live stock and ship them to this and other markets.

The COURT:

Q. How many members are there of your Association?

A. Between 600 and 700.

Q. Is your Association a corporation?

A. Yes sir.

Mr. COWAN:

Q. Did you have anything to do with the bringing of the original complaint before the Interstate Commerce Commission?

Mr. DAWES: That is objected to.

The COURT: How is that material?

Mr. COWAN: It is only material for this purpose. The question was repeatedly put to a number of the witnesses by these gentlemen as to the extent to which persons were interested in this matter. A number of them said that the shippers of live stock were not interested; that the only interest that was shown here was that of an exchange here in Chicago; that the shippers were not making any complaint. That was repeatedly stated and the question repeatedly asked apparently with a good deal of interest. Now, I want to show what the facts are in regard to that. These railroad men have testified

1791 that the shippers of live stock were not making any complaint. Nobody complained to them, in face of the fact that the petition was filed here by the Chicago Live Stock Exchange.

Now, if I show by Mr. Buel, that as a matter of fact, the petitioners and those who were the movers in filing the petition were persons who were interested in the shipment of live stock in that part of the country, as owners, as commission men, and as interested in live stock, and as men who carry on the business, it certainly is plainly rebuttal to whatever was testified by these other gentlemen upon that subject. It was contended, and objection was urged by my friend Mr. Shaver on the other side of the table, that it was imma-

terial whether anybody complained or not. Your Honor desired to hear the whole of this case, and without any criticism whatever from us went on and heard the testimony, what they had to say about it. Now, then, when it comes to prove one of the real facts by one who knows there is a flood of objections.

The COURT: I guess the shortest way is to let him answer and save argument.

Mr. SEVERANCE: I desire to object on the ground that it is immaterial, irrelevant and incompetent.

The COURT: Read the question.

(The question was then read.)

1792 Mr. SEVERANCE: That should be answered by yes or no, and not give any disquisition on the matter at all.

The COURT: Yes.

A. I did.

Mr. COWAN:

Q. What did you have to do with it?

Mr. SEVERANCE: I object to that as immaterial.

Mr. RANSOM: I desire to make the same objection.

The COURT: Objection overruled.

A. I was serving on a Committee which our organization has known as "The Railroad Committee" at that time. I was one of its members at that time.

Mr. COWAN: Proceed, Mr. Buel?

A. I have answered the question, have I not? I have said that I was a member of the Committee.

Q. In whose behalf was that Railroad Committee, who filed that petition, acting?

A. In behalf of its members and patrons, and the——

Mr. SEVERANCE: That was filed on behalf of the Exchange itself, and I object to the witness answering it?

The COURT: Let him tell what there is about it?

Mr. SEVERANCE: This testimony, counsel says, is offered to rebut statements of the gentlemen from the various railroads, who said that there were no complaints made to them. Now, certainly, any private talks between these gentlemen and other members of this

1793 organization out here, complaining one to another, without showing that these complaints were brought to the attention of these gentlemen who testified or somebody representing their road, don't rebut their testimony in any way.

The COURT: Objection overruled. Go ahead with your testimony.

(The pending question and answer as far as given was then read):

A. (Continued:) —and the interests of this Chicago Market.

Mr. COWAN:

Q. Was the motive which actuated you in the filing of that petition solely with respect to the matter of commissions, or did it embrace the interests of the shippers as well?

Mr. RANSOM: The same objection.
Mr. SEVERANCE: It is calling for a conclusion and not for a fact.
The COURT: Objection sustained.

Mr. COWAN:

Q. You mentioned being in the cattle business yourself. Have you had any experience with respect to the matter of shipping to the different markets for sale?
A. I have.
Q. What experience have you had in that particular?
A. Since the first day of January, myself and my associates have marketed about 5,000 head of cattle.
1794 Q. Where did you ship them to?
A. Principally to Kansas City, and St. Louis, and some into Chicago.
Q. What proportion to Chicago?
A. A very small proportion, not to exceed five per cent. I should say?
Q. Why?

Mr. SEVERANCE: I object to that as immaterial.
The COURT: Yes, I think so.
Mr. COWAN: It will lead up to another question. Being engaged in the business in those several markets, we will assume that you know what you deem to be the best market. What is the best market for cattle, Mr. Buel, so far as the price paid on the market is concerned?
Mr. SEVERANCE: Will you kindly restrain yourself until I make my objection?
The WITNESS: You must be quicker with your objection, quicker to get your objection in. I did not understand that you were going to make one. I cannot look at you and Judge Cowan at the same time.
Mr. SEVERANCE: Well, just slow down to six miles an hour when you are in the city limits. My objection to that is, that it is not rebuttal. That don't rebut anything that was brought out as a part of counsel's case in chief.
The COURT: Objection overruled.

1795 The COURT: What do you mean?
A. I mean that the price obtained, Judge for cattle is higher in Chicago than in the other markets. Of course, it would cost more to transport them, to bring them here, but the price of a light grade of cattle would be higher here.
Q. Without taking into consideration the cost which it takes to get them here.
A. Yes, I so understood the question.
Mr. COWAN: Then why didn't you ship your cattle here, that you marketed in Kansas City and St. Louis?

Mr. SEVERANCE: I object to that.
The COURT: Objection overruled.

A. Because there is—because the freight is greater in bringing them to Chicago than it would be to the Missouri river.

Mr. COWAN:

Q. Are there any other elements of difference or loss incident to it?
A. There would be the shrinkage in the weights of the cattle.
Q. About how much per head?
A. From fifteen to thirty pounds from this territory over these other western markets.
Q. What is the different in rate when you ship from a Texas point for example, to Kansas City, if you come on to Chicago?
1796 What additional amount do you have to pay?
A. I think the rate at this time is between sixteen and seventeen cents per hundred more to come to Chicago than to stop at the Missouri River markets.
Q. That is where you bill them through to Chicago?
A. That is on through billing, I mean.
Q. And that applies to the Texas and Indian Territory country?
A. Yes sir.
Q. What is the difference from St. Louis?
A. Between ten and eleven and a half cents. I could not state exactly.
Q. Are the same buyers of live stock, that is, cattle and hogs engaged in the business of buying and slaughtering on the markets on the Missouri River, and at St. Louis who are also engaged in the business at Chicago?
A. The class of buyers that we usually speak of as packers are represented largely in all of these markets. We have other buyers who are located here that perhaps don't buy at the Missouri River points.
Q. Is there more competition in the buying here than there is at those markets?
A. Yes, because of a greater number of buyers.
Q. Now, what do these buyers that you have here purchase the cattle for?
1797 A. Some of them are purchased for slaughtering here in Chicago at the large slaughtering houses. Others are bought on orders for export trade for the markets throughout the east, such as New York, Boston and Philadelphia.
Q. Are many cattle shipped on the hoof from here to points in the east fro slaughter?
A. Oh, a great many.
Q. In the complaint, in this case, Mr. Buel, it is claimed that there is an advantage that Missouri River markets have by reason of the higher rate on the packing house products—the lower rate on the packing house products and dressed meat than upon the live stock shipped locally from that territory and shipped locally from points this side of there. Will you state whether or not there is such an advantage, and if so, explain wherein the advantage lies?

Mr. SEVERANCE: I object to that as not rebuttal.
Mr. RANSOM: It is immaterial and it calls for a conclusion and not for facts.
The COURT: Objection overruled.

A. Necessarily there would be an advantage in favor of the slaughterer who slaughters his cattle at Kansas City, because they would have a less amount of weight to transport than they would have in the live animal. In other words you take a one thousand pound steer, and ship in here and you would pay for—if he was bought locally there, you would pay 23½ cents, I believe that is the rate. If you slaughter him, he would not give more than
1798 550 pounds of beef. Then the freight that the packer would pay on would be simply that 550 pounds. In other words they reduce or save 450 pounds on a single animal.

Q. Well, he has that advantage naturally, hasn't he?

A. He has that, yes sir.

The COURT: He is entitled to that, isn't he?

A. Yes sir.

Mr. COWAN: He is entitled to that?

A. Yes sir.

Q. Now, then if he ships that carcas- cheaper than the cattle owner can ship the animal per hundred pounds, is that a still further advantage or not?

Mr. SEVERANCE: I don't think counsel ought to testify that way, and lead the witness.

The COURT: The objection is sustained.

Mr. COWAN:

Q. You may proceed to explain wherein there is any advantage between the 23½ cents on cattle and the 20 or 18½ cents on the carcas-.

The COURT: If there is any advantage. I do not understand him to say that there is any. What is the fact about that. Are there any other advantages?

A. Well, the advantage is the different in the freight rate paid on the live stock.

The COURT: That is what you are to explain.

A. The advantage would be the difference in the rate of
1799 freight charged by the railroads, between the live stock and dressed beef or packing house product rate. That would be a further advantage.

Mr. COWAN: Well, suppose a man ships in there or drives in there from Iowa, Missouri, to Kansas City or to Omaha, what would be the relative position of the man who drives the cattle in with respect to shipping to Chicago (if he should see fit, after he had got in there to do so) to the packer who ships or would propose to ship the carcas- in case he bought the animal? What would be the advantage or disadvantage in respect to the equality of trade as between them?

Mr. RANSOM: Between who?

Mr. COWAN: Between the buyer who intends to slaughter and ship and the one who does not intend to slaughter, but who intends to ship the animal?

Mr. SEVERANCE: Is that a question for expert testimony?

The COURT: Let him give his opinion.

A. The man who drives the cattle into Kansas City he would have practically no expense in delivering them into the market.

Mr. COWAN: Suppose he did not sell them there, but shipped on?

A. If he goes on, then he has got to pay the local rate from Kansas City to Chicago, which is 23½ cents.

1800 The COURT: Why isn't that a fair rate?

A. Because the product would be shipped at a much lesser rate by the packer than the owner of the cattle could bring his cattle into this market for.

Q. Why isn't that fair that it should be?

A. I don't hardly know Judge how to answer it other than to say that it looks clear to me that it gives the packer an advantage over the man who wants to ship the live stock, because of the fact that the railroad is making him a lesser rate than he makes on the live animal.

Mr. COWAN:

Q. Are there any cattle driven into Kansas City and Omaha?

A. There is a great many driven into Kansas City that are fed near by there.

Q. And they are shipped into Kansas City or driven into Kansas City for the purpose of sale on the market or for shipment out?

A. Yes sir.

Q. Do they ship those cattle out, do you know?

A. Sometimes, but not often.

Q. Mr. Buel, what do they bed cars with that are shipped in here from Iowa?

A. I cannot testify, because I do not know.

Q. Do you know whether or not in any case the railroad charges the shipper for the beding?

A. Yes sir. I have seen that on our expense bills that us
1801 commission men take up from the yard company, which is turned over by the railroads to them. I have seen the charge.

Q. You paid those charges yourself for your customers?

Mr. SEVERANCE: I would like to know what road that is?

Mr. COWAN:

Q. What road is that?

A. I noticed it on the Chicago, Burlington & Quincy very recently.

Q. How much per car?

A. I think some of them was 75 cents a car, and perhaps some were less.

Mr. SEVERANCE: What other road?

A. I noticed the charge on the Rock Island Road recently.

Mr. COWAN:

Q. In what way are the prices of live stock fixed at these various markets? In what way does the price come to be known?

A. The seller or the commission man who represents the owner, takes the buyer and goes into the yard and examines the cattle. The

buyer says, "What do you ask for these cattle"? The salesman is expected to put a price on them. Then the buyer, if they are cheap, he tells him that he can weigh them. If he thinks they are not worth that money he offers him less, a less price than he asks. Then the salesman will get some other buyer and he may show them to a dozen or two dozen buyers before he sells that drove of cattle.

Q. How does the salesman know what to ask, and how does the buyer know what to offer?

1802 A. The salesman, from experience he becomes in a measure a judge of the article, and he puts a price that his judgment tells him would be the market value for the stock that day.

Q. Judging it by some other price on some other day?

A. No, judging it by the supply and the demand. If our receipts are light and we have not had many cattle for a few days before, we know there will be a more urgent demand that day than there would be under a heavy supply or at a time when the receipts had been heavy for several days.

Q. But he measures his price by what is paid the day before, or the week before or the price that is being paid at some other market, doesn't he?

A. Well, I don't—of course, a salesman who is posted keeps track of the market east of here and the export cattle, the number of cars of cattle that go for export trade. A good salesman keeps in touch with the situation in Liverpool, to illustrate, and with what I term the demand and the supply and that enables the expert salesman to form an idea as to what he thinks the cattle are worth that day.

Q. How does the man that buys the cattle get the idea of what he ought to pay?

A. He judges from the same standpoint, I think. He knows how many cattle he wants and he has his orders.

Q. Does he know what he wants to pay?

A. No sir, not always, he buys them as best he can.

1803 Q. Now, taking it at Kansas City, or Omaha, or Fort Worth, what factor rules the offerings on the market there?

A. The offerings?

Q. The offerings. Say at Kansas City to-morrow morning there is 3,000 cattle, and your salesman goes out into the yard and Mr. Armour's buyer comes out into the yard, how will the two or them determine what the one will ask and what the other one will pay for that cattle? What facts will they ascertain first?

A. I might illustrate by saying that I think most all commodities, it is a chance that the salesman has to take, what he shall ask for it, just like buying or selling a horse. The owner of the horse will always put a price on his horse. The purchaser will say "I will give you so much," or if he thinks he is cheap, he will *will* take it and pay him, and I think the same conditions will prevail in any business.

Q. Is the market at Fort Worth, Kansas City and St. Louis, determined in whole or in part upon the market in Chicago?

A. I think so. Chicago is the controlling market, because of its largeness.

Q. And that applies likewise on trains, does it not?

A. I presume so, but I am not very conversant with that subject, however.

1804 Q. Chicago is much the largest and most important market in the country?

A. Yes sir, on live stock.

Q. Do you know whether or not the receipts in the yards here of a morning and the price at which the cattle and other live stock is sold, immediately telegraphed to those various markets?

A. The receipts of live stock is always telegraphed early in the morning to the other markets, as to what it is in Chicago.

Q. Do you know whether or not anybody telegraphs the prices to be paid?

A. The big slaughtering houses, those big concerns advise their buyers in the other markets, the conditions, and give them a general idea, as I understand it as to what they are buying cattle for on these markets at that time.

Q. In your experience in selling cattle for customers at Kansas City and cattle that are sold for the same customers at Chicago, does it happen that cattle which are offered for sale by you and kept in Kansas City are shipped on to you in Chicago for sale, not being sold there?

A. That they often send them on?

Q. I say, does it happen that cattle that are offered for sale at Kansas City are not sold and then shipped on to you at Chicago for sale?

A. Yes, they are shipped on if they are not sold. There
1805 is a very small percentage of cattle that are forwarded us from Kansas City.

Q. It happens though that that is done?

A. Yes.

1806 Q. In such cases is it a fact or not that the price which you receive, which you are able to obtain here, will not generally exceed the difference in freight?

A. More frequently we do not get enough additional price in Chicago, over the price offered in Kansas City to pay the freight and the shrinkage and incidental expenses that would follow the consignment from those markets.

Q. What result has that had on the shipment of live stock on to Chicago, we will say from the Indian Territory and Texas points?

Mr. SEVERANCE: If the Court please, that is immaterial. This witness has already testified that the rate from Kansas City, Indian Territory and points beyond is between 16 and 17 cents a hundred; the rate of packing house products is 20 cents. If they have a better market down in Kansas City that cannot be urged against the contention of the defendants in this case. The testimony of this witness shows a rank discrimination in favor of Chicago and against Kansas City, of a difference between 16 and 17 cents on the one hand and 20 cents on the other. If we are going to consider these differences in rates, there is no discrimination at all, it makes no

difference what has brought about this situation, so far as the issues in this case are concerned, and I object to this as not rebuttal.

The COURT: Objection overruled.

(The last question was read.)

1807 A. It has discouraged the shippers from forwarding cattle from those markets on to Chicago.

Q. How many cattle were received, say five years ago, per annum, from Texas? Do you recall in a general way—at the Chicago market?

Mr. SEVERANCE: I object to that as immaterial, because no cattle are forwarded to Chicago from those points, via Kansas City, as the question states; they are all forwarded at 16 and 17 cents; consequently 23½ cent rate cannot have anything to do with preventing shipment of those cattle.

The COURT: Objection overruled.

A. I can't answer that to a definite point, because I don't remember as to the exact receipts of cattle that might have originated in that territory, that came to Chicago five years ago, but I would testify that there is not five per cent. of as many cattle shipped from Oklahoma, Indian Territory and Texas to Chicago that there was shipped five years ago, and I am satisfied that would be——

Q. Per annum?

A. Per annum, yes.

The COURT: Is it five cattle now, whereas it used to be 100?

Mr. SEVERANCE: What is that question?

(Question was read.)

The WITNESS: Yes, sir.

1808 Mr. COWAN:

Q. I will call your attention to some statistics. Is it not a fact that the Garfield report shows only 73,000 cattle from Texas were marketed in Chicago during the year 1904 against 350,000 four years before?

Mr. SEVERANCE: I object to that.

The COURT: Objection sustained.

Q. Are there any cattle shipped to Chicago from Kansas?

A. Yes, sir.

Q. What portion of Kansas?

A. Various portions, largely, I think, from the northern part of the state, though.

Q. Northern and central part of the state?

A. Yes.

Q. Do you know whether the proportion of shipments of hogs and cattle from Kansas has declined, shipments to Chicago?

Mr. SEVERANCE: Same objection.

The COURT: Same ruling.

Mr. COWAN: If you don't know——

A. I don't know. I can't answer that question.

1809 Cross-examination by Mr. BAXTER:

Q. Mr. Buell, I understand that none of the stock yards here at Chicago is interested in having the live stock rates reduced because it pays for unloading, for feeding, reloading and re-bedding where cattle are shipped out, and that that is the extent of the interest of that company. I have heard mention of speculators. Who are they, please?

A. Speculators?

Q. Yes.

A. They are a class of men who buy stock from the commission man and assort the stock, put cattle and hogs of a like class together and re-sell them. It would largely apply to what we term speculators who deal in stock cattle, and feeding cattle. The countrymen come here and go to these people and want cattle of a particular flesh and quality to take out in Illinois or some other country to feed them.

Q. Wherein do they differ from the life stock commission merchants that do business here?

A. The commission merchant does not buy the stock in the market, you know. He is simply the agent or representative of the owner of the stock in the selling of it.

Q. Then the live stock commission merchant, as the agent of the seller, sells the stock to the speculator, is that the idea?

1810 A. Yes, if that is the kind that suits them, and they are the best bidders for that stock, they sell them to them.

Q. Who else bids for the stock except the speculator?

A. If the countryman who wants a bunch of cattle to feed, is here in person, he will go direct to the commission firm and buy, or at least endeavor to buy a particular lot of cattle, that is such as he wants.

Q. The animals that are slaughtered here at the packing houses in Chicago, are they bought by the speculators and commission merchants?

A. Not at all, no, sir.

Q. Then the packing houses have their own agent?

A. Yes, sir.

Q. So then we have, it seems, an exporter—who is he?

A. He is a man who buys cattle in this market to send to foreign markets?

Q. Does he buy from the commission merchant direct or does he buy through the speculator?

A. Always from the commission merchant direct.

Q. Then the patrons of the commission merchant are the speculators proper, the packing house purchasing agent and those that are purchasing for export, is that correct?

A. All classes of buyers trade with the commission salesmen.

Q. What I am trying to do, Mr. Buell, is to ascertain the various classes of buyers of live stock that is brought here to

1811 Chicago?

The COURT: He has named three kinds. Are there any other kinds?

The WITNESS: We have what we term "order buyers," men who represent slaughter houses in New York, Boston and other Eastern markets. Those men buy cattle on a commission, just the same as the commission salesman sells them for a commission. The salesmen sell cattle and get 50 cents a head for selling them. There is a class of men stationed in Chicago who buy export cattle and cattle for Eastern markets and they receive a commission for their services.

Q. Those are all the classes of buyers of live stock that are sold in Chicago, so far as you know?

A. Yes, I think that would cover them. We have the exporter the men who represent the big slaughter houses and the little slaughter houses, the speculator who is a buyer often of feeding cattle, at times, when there is no countryman here that wants those cattle, he buys them and holds them until the next day when there are some countrymen here who want that cattle.

The COURT: The order man?

The WITNESS: The order man, yes, sir.

Q. Are they on the market all the time, every day?

The WITNESS: All the time, every day.

Q. Is the exporter on the market every day?

The WITNESS: Yes, sir.

1812 Q. And the special order man?

A. There might be occasionally a day that they wouldn't be, Judge, but as a rule they are here, they are stationary here.

Mr. BAXTER:

Q. I understood you to say that the price of cattle is higher, or at least generally higher here in Chicago than in other markets; to what markets do you refer, Mr. Buell?

A. I was representing two Western and Southern markets at that time. I did not mean New York, because cattle would be higher in New York than they would be in Chicago. I only referred to our Western markets.

Q. And they would be still higher in Liverpool than they would be in New York?

A. Correct, they should be.

Q. Under the ordinary workings of commerce it would be that way?

A. Yes, sir, if the man kept even and made a profit he would have to add the expenses of transporting the stock to Liverpool from New York.

Q. If the prices on cattle are natural, under the laws of commerce, higher in New York and higher in Liverpool than in Chicago, upon what do you base the claim that Chicago is the live stock market of the world?

A. I base the claim from a matter-of-fact standpoint, that it is the volume of business, the receipts of cattle, hogs and sheep, each of those classes of live stock is greater in Chicago than in any other market in the world.

1813 Q. I will come to that presently. I am now trying to get at how you claim Chicago to be the best market in the world

when you admit that the prices of cattle are higher both in New York and Liverpool than in Chicago?

A. I don't think I testified that it is the best market.

Q. You don't think Chicago is the best market.

A. I didn't testify that way.

Q. Well, what do you think that way?

The COURT: It is the largest market?

The WITNESS: It is the largest market.

Mr. BAXTER:

Q. But you don't think it is the best?

A. I don't, Judge, I don't intend to testify that cattle in Chicago will bring a price as great as they should bring in New York, because you must allow for the cost of transporting the cattle from market to market, but in comparing Chicago with Western markets the prices I stated were higher for the same grade of cattle in Chicago than they would be in Kansas City, Omaha, or St. Jo.

Q. We will get back to that presently. We want to look eastward now. I understood you to say that the gentlemen who are purchasing for export look to the Liverpool market, the purchaser looking for stock to send to the slaughter houses at Boston and New York, to be slaughtered there would look to the New York market?

A. Yes, they should take that into consideration I should
1814 think.

Q. Now, then, if those export prices and New York prices are at a certain figure, doesn't that have an influence upon the price of all the cattle brought here to Chicago? Now, suppose the price on New York cattle is away up, wouldn't that elevate the price here in Chicago?

A. It would only affect the value or the price of the class of cattle there for that particular purpose, what we term export cattle. It would not affect the price of a grade of cattle that would not do to export. We would have more of those than we have of cattle suitable for that trade.

Q. You said something about having to ship some of your own cattle to St. Louis and Kansas City, did you not?

A. Yes, sir.

Q. Will you furnish tomorrow a list of the stations from which you make those shipments and show the roads on which they are located?

A. Yes, sir, I will do that.

Q. Now, why did you ship to Kansas City and St. Louis as against Chicago?

A. Why did I ship there?

Q. If Chicago was the best market?

A. Because the net result is better at those points than if they had come to Chicago, when I add the difference in the freight rate and incidental expenses to bring them on from those points here.

Q. What do you mean by "incidental expenses"?

1815 A. A man has to accompany those shipments to look after them. There is a feed bill on the cattle, and there is a

shrinkage on the cattle. When they come on they won't weigh as much in Chicago as they did in the other markets.

Q. Then a person by selling in Kansas City would save the shrinkage, he would save the freight rate to Chicago, and he would save the feed in transit and he would save the expense of employing men to travel with his cattle to Chicago?

A. Yes, he could do that.

Q. And the freight rate to Chicago—and those were the circumstances that induced you to send them to these markets; am I correct in that?

A. Yes, sir, that is correct, the net results, when you add—even though you get a quarter of a dollar a hundred more for cattle in Chicago than you would get in Kansas City for them, you have less net money for your cattle, if you send them on here, than you would if you have sold them in Kansas City for a quarter of a dollar a hundred less.

Q. If when you made those shipments you looked first to Kansas City to see what your rate into Kansas City would be, and what your expenses getting your cattle to Kansas City would be, and on the other hand you looked to the rate to Chicago and the expenses getting the cattle to Chicago, then you looked to the prices prevailing in the Kansas City market and the Chicago market re-
1816 spectively—didn't you go through that process? Wouldn't you have to do it?

A. That would be a general basis, Judge, yes, sir.

Q. Then how do you say the Chicago market controlled the Kansas City market in the case of your own shipments?

A. How is that?

Q. Why is it you say the Chicago market ought to control the Kansas City market, when you yourself were controlled by the prices prevailing in the Kansas City market?

A. Well, the reason of that—it seems to me I am endeavoring to make it plain, but I undertake to say that I have tested to my own satisfaction—you take ten carloads of cattle and *leave* them in Texas, bill half of them to Kansas City, five loads, and five loads to Chicago; we figure how much these cattle will net per head and experience has taught me and other men who are shippers, that those Southwest cattle bring more dollars and cents per head if we sell them there than if we bring them on to Chicago.

The COURT: How long has that been so?

The WITNESS: That has been so—it has been increasing for the past ten years. Ten years ago we had very large receipts of cattle from that country, they have all been dropped out practically.

The COURT: Have you seen any difference since August, 1902?

The WITNESS: There is less cattle coming on to Chicago from that Southwest country than there was in 1902.

1817 Mr. BAXTER:

Q. Do you think, Mr. Buell, as a business man, interested in this question, that a man who has raised a carload of cattle in Southern Texas or Oklahoma, and who has transported them for one thou-

sand miles to Kansas City, where he finds a slaughter house, should be compelled, by an adjustment of rates, to bring those cattle 450 miles further to find a market at Chicago?

A. No, sir, I do not think he should be compelled to do it.

Q. Do you think any rate adjustment would be a just one that would force that man, by a mere difference in rates, to travel with his cattle five hundred miles further?

A. I wouldn't think it would be best to force a rate that would force—make a rate that would force him to come on here. The trouble is now that a rate is made to force him to sell them there.

Mr. BAXTER: I will discuss the rates further along.

The WITNESS: If you want to get in the rate——

Mr. BAXTER: Certainly.

Q. You said, for instance, you had to pay 23½ cents if you shipped from Kansas City to Chicago?

A. That is the local tariff, according to my understanding.

Q. Now, is it a fact that any cattle actually move on that paper local rate of 23½ cents?

A. Is there any moved?

1818 Q. Yes.

A. Yes, sir.

Q. Do you know of any shipment of cattle from Kansas City to Chicago that has paid that 23½ cent rate?

A. Now, I don't look at these expense charges made by the railroads, but I know we get cattle out of Kansas City billed on the local rate out of there. I had some myself last week.

Q. How about the amount of them? There may be few cattle driven into Kansas City but the Commission in this case, in its report, states that there was practically no cattle moved from Kansas City to Chicago on the rate of 23½ cents, and that it is of no importance in this case except as being the maximum limit of the intermediate rate; now, do you differ from the Commission in that?

A. The few shipments of cattle that come out of Kansas City on to Chicago now, I feel most inclined to say, pay 23½, but as a matter of fact I don't make account sales and don't watch that freight rate, but it is generally understood that is the rate.

Q. The question I am putting to you is that if any do actually move on the 23½ cent rate from Kansas City to Chicago, is it but an insignificant proportion of the total movement from Kansas City to Chicago?

A. No, sir, I shouldn't think it was because the Western shipper or the Southern shipper who wants to come to Chicago, is inclined to avoid going into those markets.

Q. Are not the rates so adjusted that a man from a point
1819 down in Texas or Oklahoma can consign his cattle to Chicago, have them carried to Kansas City and there try the market and if it is not satisfactory bring them on here for not exceeding 20 cents per 100 pounds, and in many cases as low as 16, and in some cases as low as 12 cents, being the balance of the through rate from point of origin to Chicago?

A. That would be true, but the volume of business that is handled

in that way is very small, because the owner of cattle has learned to know that it is not to his interest to take cattle into Kansas City and offer them for sale and then ship them out here, whether his freight is 16 cents or 23. He doesn't do that.

Q. Then, as I understand you now, it is not the rate that he pays from Kansas City to Chicago that induces him to come on to Chicago at all. You think it would be the same whether the rate he paid was 23½, or 20, or 16, or 12?

A. The man who comes on from the Western Market to Chicago, comes on because he has not received an offer for his cattle according to his ideas of their value.

Q. Well, he knows by telegram exactly what the price is here in Chicago?

A. Not by any means, no, sir, he don't know, because there is no man that lives that can tell what cattle will bring in Chicago if he is in Kansas City. The markets fluctuate from day to day.

1820 Q. I know, but he knows the price of yesterday, doesn't he?

A. He knows what it was of yesterday.

Q. What time do your sales commence in Chicago?

A. About eight o'clock in the morning.

Q. What prevents him knowing by nine o'clock at Kansas City what the prices in Chicago are?

A. If he does he don't know what his particular class of cattle would bring.

Q. Well, he knows to what class his cattle belong, does he not?

A. No, sir, he does not know.

Q. Don't you have a regular grading of cattle here, which is generally understood throughout the community, throughout the country?

A. We don't handle live stock. I have tried to testify in my direct examination—we don't have a schedule of prices. We can't handle live stock as they handle the grain in this market. They have inspectors and they make a grade, and it is No. 1 or No. 2 wheat, something of that sort. The grade of a bunch of cattle is simply a matter of judgment between the salesman and the buyers. For instance, I take a man a drove of cattle this morning and ask him five cents a pound for them. He says, "I will give you 4¾."

Q. What sort of cattle are you talking about?

A. I am talking about native cattle this morning.

Q. Native?

A. Yes, sir, I mean cattle near-by. Now, because I ask him five cents a pound don't signify that those cattle have any particular grade or that they are like any other drove of cattle in the

1821 yards. The chances are there was not another drove of cattle in the yards that was identical with those that I was trying to sell.

Q. I notice in your newspapers here, a classification of cattle, several classes; I don't remember the names of them. Don't you classify cattle in some general way?

A. Oh, in a general way.

Q. Native is one class, you have mentioned?
A. Yes.
Q. Give us the other classes.
A. We have natives and Western, and we have Southern cattle, and another grade called Western cattle.
Q. Don't you have them graded by their age or weight, something like that, or tell how old they are?
A. No, sir, that wouldn't apply in those grades.
Q. If there be no classification of cattle, like there is of cotton and wheat, by which the world can know what your prices are, how can Chicago claim the right to control the other cattle markets? How would any man anywhere know how to buy on Chicago market if nobody knows what kind of cattle or prices apply?
A. Well, in answering that question I will say that Chicago is the great market of the world, because of its large receipts, which are heavier than any other. We have more of a variety of all these different grades of stock coming here.

1822 Q. I understand that, Mr. Buell, but I understand the claim to be set up in this case that Chicago is the great cattle market of the world; that it dictates the prices that are to be paid elsewhere, and therefore it ought to be fostered and encouraged. Now, if Chicago doesn't publish any grades upon her stock, if it is a free masonry arrangement that you gentlemen have and that nobody anywhere else but right in the Stock Yards can find what is being done there, that might be a different institution from being the best market in the world, and I am trying to get at what it is.
A. Anybody can go out there and see what is being done.
Q. But he can't find out unless he does go there?
A. You can't find out, because one drove of cattle brings six cents a pound, and another drove that you might think is just like them, yet the buyer will only give 5¾. You can't understand why that is, yet that buyer claims to be an expert and says that drove is worth 6 cents and this drove 5¾. The cattleman, not well trained in his business can't see any difference between the two.
Q. When your Chicago Board of Trade publishes a lot of information in regard to your packing and cattle business here and quotes the prices on cattle, the range of cattle, cattle prices, what does it mean?
A. I presume those prices are quoted after the sale has been made of those cattle, and the packers report to them what they give

1823 for their cattle, and it is cattle of certain weights.

Q. How would that help anybody to know tomorrow what price to pay next week?
A. It won't help him at all, it wont be any advantage to him, because the market is liable to be a quarter higher or a quarter lower tomorrow.
Q. That goes without saying, but I want to know how would anybody anywhere know what the price was at Chicago yesterday on any given grade or kind of cattle?
A. How would they know?

Q. How would anybody know? Could he find out from the newspapers?

A. Yes, sir, he gets a general idea as to the condition of the market from the newspapers. Those reports are made up from the cattle sales.

Q. You say 4½ cents a pound or 5 cents a pound? Would that mean an old cow that can hardly stand up, or does it mean a fat beef ready for the slaughter?

A. Let me answer that by saying that any cattle bringing today 5½ cents a pound, they may be a bunch of yearlings that will weigh 800 pounds; they might be a drove of cattle that will average 1,500 pounds and sell at the same price.

The COURT: The export cattle are supposed to bring the highest price, aren't they?

A. No, sir, not these days.

The COURT: Unless it is the calves?

A. Export cattle are a grade of cattle that usually weigh 12½ to 13½, and these cattle on present markets are selling from
1824 4¾ to 5.40, depending on the quality.

The COURT: What kind of cattle do bring the largest prices?

A. What we call our choice, well matured cattle, that go for our best hotels and best restaurants.

Q. How much do they weigh?

A. They will weigh anywhere from 800 to 1,600 pounds.

The COURT: From one year old to three years old?

A. Up to five or six, probably.

Mr. BAXTER:

Q. Any man that owns a bale of cotton can know what the price of low middling in New York was day before yesterday; any man that has got a bushel of wheat to sell can tell what No. 2 sold for in Chicago yesterday?

A. Yes, sir, he knows what it is if his stuff will grade that way.

Q. I understand that there is now analogous method by which anybody outside of the Union Stock Yards can tell what the price of cattle is?

A. Don't put it that way—outside of the markets.

Q. I am not putting it at all. I am trying to get an understanding from you. You are the person to put it. I am trying to find out how a gentleman in Kansas City can be controlled by the Chicago price when he can't tell out at Kansas City what you paid yesterday, or what you are paying today for cattle of a particular kind?

1825 The COURT: See if you can answer that.

The WITNESS: There are men in Kansas City who take their chances of being able to say that this is a similar bunch of cattle, or equally as good as the bunch that brought five cents a pound in Chicago yesterday.

Q. Yet it may turn out that the five cents was paid upon a bunch of cows, or upon a bunch of middling stiffs?

A. If he has the weights of those cattle he will know different from that.

Q. That is not telegraphed, is it?

A. Sir?

Q. That is not telegraphed to Kansas City or anywhere?

A. Our daily reports show the weights of those cattle.

Q. Getting back to that,—that answers my purpose as well. Then your prices are made according to the weights of the cattle?

A. No, sir.

Q. What are they made from?

A. They are made by the conditions and the demand that exists for a particular kind of cattle.

Q. Will you for the purposes of this record, describe a transaction that you had Saturday, or the last transaction that you had, and describe the character of the cattle for which you got a particular price?

A. Can I describe?

Q. Yes.

A. Yes, sir, I can readily do that. I can describe some I sold today. I sold some cattle from Montana today——

1826 Q. Your description is for the purpose of being telegraphed to Kansas City tomorrow, to let them know what that kind of cattle brought.

A. I sold cattle today from Montana. I don't know just what they weighed, but I would say they weighed 875 pounds, for 3.30 a hundred; I sold other cattle from Montana that would weigh 11½ to 11¾, what we term fair quality, at 3½ cents a pound.

The COURT: For Montana or from Montana?

The WITNESS: From Montana, shipped in from there. I sold some other cattle from Montana that I call a little better quality than those, and the buyer seemed to think they were about the same weights for 3.60, and I sold a few cattle from Montana that would probably weigh 12½ at 4½ cents a pound.

The COURT: All grass fed?

A. All grass fed cattle, yes, sir.

Mr. BAXTER:

Q. You said something about charges for bedding appearing in some expense bills that you have handled, showing that some of these roads had charged the shipper for bedding, Mr. Buell, did I understand you right?

A. Yes, sir.

Q. Did the shipper complain of the amount of the charge, do you remember?

A. I don't remember. I think we were looking over the expenses that were added to his shipment, and we discovered that it was a charge for bedding the cars.

1827 Q. Well, he made no complaint as to the size of the charge, that it was too high, or anything of that sort?

A. No, sir, I don't know that he did.

Q. You speak about Chicago being the best market, and being generally so believed in the country, and that is one reason why it holds the position that it does as a market. Are you not aware that

it is quite generally believed in the United States that there is a combination of packers here in Chicago that arbitrarily thinks the prices on the live stock brought here, and that that is one reason why many people are afraid to ship to this market?

A. I have heard many men say that they believed that there was a combination between some very large packers who agreed upon a method for controlling the market. Those same packers, large packers as I understand it, are interested, in fact I know they are, in such markets as St. Paul, Sioux City, Omaha, St. Joseph, Kansas City, St. Louis and Fort Worth. They have got slaughter houses in all of those markets, the same men that you are asking about.

1828 Q. Now, if these men fix the prices in all of the markets by combination between themselves, what is the use of coming to Chicago? They would not be any better off here than they would be anywhere else, would they?

A. They might come to Chicago and find some one else who would buy their cattle outside of these people. They do not buy all the cattle that comes to Chicago, they only get a portion of them, a pretty large proportion.

Q. They buy enough to fix the price of the balance, don't they?

A. On certain grades of cattle they do.

Q. All that are worth slaughtering?

A. They do not fix the price on what we call shipping cattle to send to the eastern market, nor do they fix the price as I understand it on our export traffic.

Q. Are there not this same class of bidders at Kansas City as there are at Chicago, foreign exporters?

A. Yes, sir; but not so many of them.

Mr. BAXTER:

Q. Didn't I understand you to say that the first thing that was done in the morning when the stock market opens here is that the buyers for these packing firms come around with the prices they are willing to pay that day?

A. No, I didn't state that. I stated that the method of sale of these cattle is for the salesman to take a buyer, whether he is a big packing house buyer or a shipper, whoever he happens to first meet, and who thinks he has got a drove of cattle that would please him, he takes that buyer, irrespective of who he is, in to these cattle

1829 and if he bids a price that the salesman thinks is a good price, especially if the owner is standing by and says it is more than he expected, you sell these cattle, then the salesman will sell it. In such instances as that the big packers as they term them have not seen the cattle. A great many cattle are sold to the first man that goes in then. As I say, it is an expert proposition between the man selling them and the man that buys them, and if they can agree the trade is made then and there.

Q. Isn't the packer's agent, that has the price that those people are willing to pay that day, isn't he the first man that you do see as a matter of fact?

A. No, sir.

Q. Well, don't you ascertain in some way what the packing house people are going to pay that day before you sell to anybody else?

A. No, sir.

The COURT: Why don't you?

A. Because I risk my judgment, Judge, as to the value of the particular drove of cattle I have got. I have had personally twenty-nine years' experience as a salesman in the market. It might be egotistical to say that I thought I am an expert, but I am not afraid to go in a drove of cattle and price them and sell them to the first man that looks at them if he bids me a price in my judgment that is as large as they will bring.

Mr. BAXTER:

Q. I do not question you being an expert, on the contrary I think you very evidently are. But the point I did not understand
1830 is why an expert that has been handling cattle and live stock traffic in Chicago thirty years has never devised any system of grading by which the public at large can know what you are doing.

A. I would answer that question by saying that there is no way by which you could get a uniform grade for cattle or hogs. It is simply the judgment of the owner or the representative of the owner and the man who makes the purchase.

Q. That is all.

The COURT: Can't you fix this matter up some way so you can compel people to bid and not make combinations, can't you avoid that?

A. I wish we could sometimes when I cannot get what I think a drove of cattle is worth.

Mr. BAXTER: One thing further I forgot. Are you a member, or your firm, a member of the Board of Trade of Chicago?

A. No, sir.

Q. Do you recognize this volume which purports to be the 47th Annual Report of Trade and Commerce of Chicago for the year ending December 31, 1904, Board of Trade, George F. Stone, Secretary, as a publication that is generally consulted by the business men of Chicago and is recognized as reliable?

A. I recognize this as a book that is prepared by the Chicago Board of Trade. I do not know that I ever saw the report
1831 for 1904, but I have seen them for other years. It contains statistics that I presume are reliable; so far as I know I would say that they are.

Q. And they would be so accepted generally by business men. You would act on anything you could see on here that you could not get any more direct or better information, would you?

A. I don't believe I would act on it, Judge, no; I wouldn't want to put money up on a report of that kind, especially on live stock.

Q. Suppose you wanted to find the receipts, or the number of hogs packed at the various large cities of the United States from 1850 or 1851 down to 1903 or 1904?

A. I would accept that as authority, yes sir, for that.

Q. Now, will you kindly hold that before you, and looking at that page and that column, I wish you would state according to that publication the number of hogs packed at Chicago in 1850 and 1851, and 1903–4. You will find it in the first column?

A. In 1850-1 it is 20,000 head.

Q. What was it in 1903-4?

A. In 1903-4, 2,925,960.

Q. Now, at Cincinnati what were the number of hogs shipped in that year, 1850-1?

A. 334,000 in 1850-1, and 247,497 in 1903-4.

Q. At St. Louis in 1850-1 and 1903-4?

A. At St. Louis in 1850-1, it is 82,274. In 1903-4, it is 247,947.

Q. Now, the same information as to Louisville?

1832 A. Louisville in 1850-1, it is 196,000; in 1903-4 there is 126,251.

Q. Indianapolis?

A. In 1850-1 there is 18,000, and in 1903-4 there is 479,380.

Q. Now, there are no statistics there for Milwaukee prior to 1853-4, are here?

A. That is what it shows here.

The COURT: Is there any in Galena for 1850?

A. No, sir; it don't seem to be here.

Mr. BAXTER:

Q. Now what was the number packed in Milwaukee in '53-4?

A. 43,000.

Q. How much in 1903-4?

A. 423,024.

Q. Now, there are no statistics as to Kansas City prior to 1867-8, are there?

A. Yes it is 1868-9, I think, isn't it. May be I am wrong.

Q. Now, what was the number packed there in 1867-8, at Kansas City?

A. 2,500.

Q. And what was it in 1903-4?

A. 861,674.

Q. I believe there are no statistics for Omaha prior to 1872-3, are there?

A. No, sir; I think not.

Q. How many hogs were slaughtered there in 1872-3?

A. 7,500.

Q. How many in 1903-4?

A. 746,596.

An adjournment was here taken until the following day, Tuesday, October 3rd, 1905, at 10 o'clock A. M.

1833 TUESDAY, *October* 3, 1905—10 o'clock a. m.

Court met pursuant to adjournment.
Counsel present same as before.

Whereupon A. L. AMES, called as a witness on behalf of the complainant in rebuttal having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. State your name?
A. A. L. Ames.
Q. Where do you reside?
A. Buckingham, Iowa.
Q. What is your age?
A. Forty six years old.
Q. How long have you lived there?
A. Forty six years.
Q. What business are you in?
A. Farming and feeding cattle.
Q. How long have you been in that business?
A. As long as I have been able to do business.
Q. Has it been a part of your business to ship cattle and other live stock to Chicago and other markets?
A. Yes sir.
Q. And buy at other markets and ship in for feeding pur-
1834 poses?
A. Yes sir, I have.
Q. In the conduct of that business, over what roads have you shipped live stock to Chicago?
A. Shipped over the North-Western, over the Rock Island, the C. B. & Q. Those are all the roads probably in Iowa. I have used the Santa Fe and Rock Island in Kansas and other roads from Dakota.
Q. Do you hold any position in connection with any organization of live stock feeders and producers of the state of Iowa?
A. I am president of the Corn Belt Meat Producers Association of Iowa.
Q. Of what is that composed?
A. It is composed of feeders and farmers and shippers of the state.
Q. How many members have you?
A. There are something over one hundred organizations varying from 20 to 200 members to the organization. The exact number I could not give you.
Q. Those organizations are by counties?
A. By counties and local positions.
Q. And you are the president of the organization which represents the whole?
A. The whole state, yes sir.
Q. You have your local organizations and then you have your state organizations?

A. Exactly.

Q. How long have you been president of that association?

A. The organization was formed in March 1903.

1835 Q. What are the purposes of the organization?

A. To look after the shipping interests, the service, the rates and all connected with the live stock interests of the men of Iowa.

Q. Have you devoted any time and attention to the study of the freight rates, the relative rates and the matter of service and the general conditions applying to the shipment of live stock from Iowa to Chicago and other markets for shipment into Iowa?

A. I have.

Q. To what extent have you given attention and study to those subjects?

A. I have devoted a great share of my time for the past—or from that time until now, in the study of those questions and a great deal before that, for that matter.

Q. How is that?

A. For some time before that for private reasons, of course.

Q. Are you acquainted with the railroad rate situation in Iowa on live stock at various points?

A. I think I am.

Q. Are you acquainted with matters pertaining to the service in connection with the transportation of live stock in the state of Iowa?

A. I am.

Q. To what part of the state does the 23½ cent rate apply on live stock shipments to Chicago, geographically speaking, in a general and approximate way?

1836 A. Taking a line running parallel with the Missouri river and locate it approximately 15 miles west of the city of Des Moines, the 23½ cent rate will apply on both hogs and cattle.

Q. From west of that to Chicago?

A. From west of that to the Missouri river, between the Missouri river and Chicago.

The COURT: The rate in that belt is 23½ cents to Chicago.

A. Exactly.

Mr. COWAN:

Q. That belt would be then just about how wide, as a general proposition?

A. About one third of the state.

The COURT:

Q. How much is that?

A. Approximately 100 miles.

Mr. COWAN:

Q. Within that distance what proportion approximately, if you have it in mind in a general way, of the live stock is shipped to Chicago and what proportion is shipped to other markets, west?

A. When you say "live stock," you have got to give the cattle and the hogs.

Q. Well, I will put first the cattle.

A. I would say 75 per cent. of the cattle moved to Chicago and if there is any difference it will be greater rather than less.

Q. And of the hogs?

A. I will say 50 per cent.

1837 Q. In point of the price received per hundred pounds, what is the best market for live stock from that territory?

A. Chicago on cattle, without any doubt. On hogs, it will vary with the season of the year and the quality of the animals that are marketed.

Q. In your opinion, from the investigation you have made of the subject, are the rates on live stock from that territory too high or too low?

Mr. SEVERANCE: I object to that as incompetent and no foundation laid.

The COURT: There is foundation enough laid, but what do you mean by "too high" or "too low?"

Mr. COWAN: Well, I will put the question in a different form.

Q. In your opinion, are those rates reasonable or unreasonable?

Mr. SEVERANCE: The same objection.

The COURT: He said he had made a study of the rates.

A. I did, yes sir.

Mr. COWAN: He is fully qualified.

Mr. SEVERANCE: The witness has not shown that he has any knowledge of the cost of transportation or transportation facilities. He is not shown to have any knowledge of the shipment of other commodities, which must bear part of the general expense. He is not shown to have any knowledge of anything except that he

1838 says that he has devoted some time to the study of the service given in the shipment of cattle and hogs and to the rates on that particular commodity. Clearly, having no knowledge of those various matters or of any of the fundamental things that underlie the making of rates, his opinion would be no better than that of any other man.

The COURT: I think you had better inquire a little more what he does know about it. Objection sustained.

Mr. COWAN:

Q. Mr. Ames, you said you had given some study to the subject of rates and the matter of transportation and the service?

A. Yes sir.

Q. To what extent have you given attention and study to those subjects? In what manner have you undertaken to inform yourself with respect to the question of whether the rates are reasonable or otherwise?

A. Well, in the first place I have read all that I could read that has any bearing on these questions.

Next, I have investigated the rates from different roads, not only

of live stock but of other commodities, such as the grains that are moved from different parts of the country and the meats that come in direct competition with the live stock from the Missouri river markets east. I have ridden on the stock trains——

1839 The COURT: Have you read the railroad reports? Do you know anything about what they claim about it and what facts they present?

A. Yes sir.

Q. To what extent?

A. Well, I have read the reports that have been made by the various Commissions and also by the railways.

Q. Have you learned anything about the cost of building a railroad and the cost of carrying a ton a mile?

A. Yes sir.

The COURT: Well, I reckon he may answer.

(The question was then read as follows: "In your opinion are those rates reasonable or unreasonable?")

A. Well, I should say that they are unreasonable rates.

Mr. COWAN:

Q. By that do you mean unreasonably high or unreasonably low?

A. I mean—Now this is in reference to the live stock, is it?

Q. Yes.

A. That the rate on live stock from the state of Iowa is unreasonably high when compared with——

Q. Well, then——

The COURT: Compared with what?

Mr. SEVERANCE: Yes, compared with what?

1840 A. When compared with the weights on like products that are moved from like points.

Mr. SEVERANCE: Will the witness be willing to state what he means by "like products?"

The COURT: "Like products" moved from "like points."

Mr. SEVERANCE: What does he mean by "like products?"

The COURT: That is an answer to the question and a very intelligent answer.

Mr. COWAN:

Q. You mean the rates from that territory in Iowa to Chicago?

A. I do.

Q. In your investigation have you ascertained whether the rates on live stock from points in Illinois to Chicago and from points in Nebraska to Chicago, considering the distance in each case, are relatively higher or lower than your Iowa rates?

A. You mean per mile, the distance taken into consideration?

Q. Yes.

A. They have a higher rate from Iowa than they do from either Illinois or Nebraska, distance considered.

Q. Now, have you ascertained whether the rates on the live stock product, that is to say the dressed meat, is higher from Missouri

river points and from points in Iowa, or lower than on the live stock?

A. They are lower.

Q. How many cars have these rates been in force substantially as they are today, in Iowa?

1841 A. I don't think there has been any change in the rates per cents. per hundred pounds. There have been a change in the rates made this way.

Formerly, we shipped by carload, so many dollars per car. That was changed to cents per hundred pounds. The next change, that was an addition to the rate, was in extending the time of marketing, that is on the road, that our stock was on the road to market. The next change was made in taking away the return transportation which has since been replaced.

Q. Do you know of any complaint made to the railroads with respect to the amount of the rate from Iowa to Chicago? If so, state when and where it took place and the circumstances of it?

A. In March when our organization was formed.

Q. March of what year?

A. March, of 1903, when our organization was formed, the State Legislature was in session. There was a bill before that body looking after the reduction of rates, the return transportation and to endeavor to secure better service. All of those points were brought before the attention of the railway people at that time.

Q. Did you have any conference or meeting with the railroad men at that time?

A. There was.

1842 Q. Where did that take place?

A. In the city of Des Moines.

Q. In March, 1903?

A. Yes sir.

Q. What railroads were represented there?

A. As I remember there were nearly all or all. I have not a list of them, but I think they were all represented, The North-Western, The Milwaukee, The Rock Island and the C. B. & Q.

Q. In what manner were the stock men represented?

A. They were represented by men from all over the state, probably 250.

Q. How many were there?

A. About 250 stock men.

Q. State whether or not at that time the facts were pointed out to the railroad men, that the rates on the live stock were too high?

A. They were.

Mr. SEVERANCE: I think, your Honor, it is fair to ask the witness what was done, rather than to tell him.

Mr. COWAN: I can hardly interrogate the witness without the question being somewhat leading.

Mr. SEVERANCE: Other people could.

Mr. COWAN: You gentlemen have not done it, others might.

Q. Now, Mr. Ames, what all were the matters of discussion be-

tween the railway representatives and the live stock men at that time and place.

1843 A. The first thing that was under discussion was the return transportation, that being the last addition that we have received in our freight, to our freight rate. The principle thing that the people of Iowa thought they were imposed upon about was the fact of the poor service given by all the railroads of the state at that time.

Q. Poor service how?

A. Poor service in taking the live stock out of the state and delivering it to the stock yards in Chicago. Prior to January 18th, 1903, the roads had been handling this live stock in a very creditable way with very little complaint being made by the shippers. For instance, in the central part,—I am living about the center of the state,—we could load our stock between 3 and 4 o'clock on a regular train and almost invariably be on the market at 7 in the morning.

Q. That is at Chicago?

A. Yes sir, I am speaking of the Chicago market entirely. After that date, for some reason, all of the roads together added six hours to the fore part of their run, making us load six hours earlier. In addition to that, in place of arriving at the yards as they used to, in time for that day's market, they frequently, more times than otherwise, we were delayed until we could not use that day's market and had to hold over until the next day, making us 24 hours plus 6 hours in the — longer on the road than was necessary, which

1844 was a thing that the stock men of the state of Iowa could not understand the reason of. That was the principal thing that we objected to at that meeting. Secondly, was the return transportation which had always been in effect and was always considered part of the rates, and which is now in effect, today.

Q. Is that the meeting at which the complaint was made that you spoke of, in regard to the rates being too high?

A. It is.

Mr. SEVERANCE: That is objected to. He asked him to state what the complaints were and he has left out the matter of rates entirely.

Mr. COWAN: Mr. Severance invariably misunderstands the witness. Now the witness had stated a while ago that they had complained of the rates at that meeting. I asked him is this the time and place at which the complaint was made of the amount of the rates, with reference to the amount of rates he had already testified to.

Mr. SEVERANCE: Just one suggestion. As long as counsel has said that I misunderstand the witness, I wish to say that the witness said that complaints were made about the rates. He has explained that by saying what he meant was that they had taken away the

1845 return transportation which is included in the rate and the only matters that were discussed there were the return transportation and the better service.

Mr. COWAN: Was that the only matter that was discussed there?

The COURT: Ask him another question. There is nothing before the court.

Mr. COWAN: Read the question.
(The question was then read.)

A. The matter of the rate was spoken of, was talked of, at that meeting.

Q. Are you able to state what the general opinion is of the members of your organization and the live stock shippers of Iowa, with respect to whether or not those rates to Chicago are reasonable or unreasonable.

Mr. SEVERANCE: I object to that as incompetent and immaterial.

The COURT: Objection sustained.

Mr. COWAN: I offer in this connection to make the proof, but I don't want to infringe upon the ruling of the court, that the witness will testify that he is acquainted with the opinion of the members of the organization of which he is the president, embracing the principal live stock shippers of the whole state of Iowa, and that that opinion is that these rates are too high, that they are not satis-
1846 fied with them. That they believe it will be of no importance to make any complaint to the railways with regard to it. I simply make that offer.

Mr. SEVERANCE: The same objection.

The COURT: Objection sustained.

Mr. COWAN:

Q. In the course of your official position with the organization you have mentioned, have you had occasion to make investigation into the matter pertaining to the claims for damages that are made against railroads on live stock shipments and the causes for which those claims are made?

A. I have.

Q. What is the causes of the claims which are made?

Mr. SEVERANCE: I object unless he fixes the particular claims and gives the circumstances under which they are made.

The COURT: Objection sustained unless you divide it up some way to show against what roads they are and what kind of claims they are. You had better find out a little more of what he knows about it.

Mr. COWAN:

Q. Well, state all you know about it, Mr. Ames.

Mr. SEVERANCE: That is just as objectionable as the other question.

The COURT: Well, let him go ahead.

1847 Mr. COWAN:

Q. State all you know about it with respect to each one of the roads and to what extent what you do know about it, applies to all of the roads or to each one of the roads?

The COURT: Limit the roads as you go along. If you know anything about the road, name it.

A. One part of the duties of the organization was to secure, if

possible a better method of getting our claims settled or method of doing away with the claims that were presented by the stock men to the various roads, altogether. With that in view I have taken up the matter with the stock men along the different lines. Over the North-Western and the Milwaukee and the C. B. & Q. particularly, and so far as I have found——

Mr. SEVERANCE: I object to that. It is not proper unless it is brought to the attention of the railroads.

The COURT: Well, we will see when he gets through. Let him go ahead. Objection overruled.

A. And from the claims that have been presented to me for settlement by the individual members of the association located along these different lines, that invariably they are made through some fault in service. That is, if the stuff was handled as promptly as we expect it to be, and as it may be, there would be no claims practically on any of the roads any more than the ordinary accident
1848 claims that are incident to all traffic. In other words, the claims that are made by the stock men are for damages that occurs through negligence of the roads in handling their stuff and delivering the articles to the market on time.

Mr. COWAN:

Q. Is there any claim on the part of the stock men represented by you that the railroads are liable for any of these claims except for negligence?

Mr. DAWES: I object to that.

Mr. SEVERANCE: That is immaterial.

The COURT: I sustain the objection.

Mr. COWAN:

Q. State what you know with respect to these matters being called to the attention of the railroads?

Mr. SEVERANCE: What matters?

The COURT: That he has just testified about in answer to the last question, I suppose.

A. Last spring Mr. H. M. Letz and myself, in order to endeavor to secure better service on the C. B. & Q. came to Chicago and appeared before the officials of the Burlington Road. In taking up the matter of claims they made the statement that they had in their office at that time 131 or 130 odd clerks and were away behind in getting the claims in shape to be returned.
1849 The result of that meeting was that the C. B. & Q. increased the efficiency of their service over their lines, and that from that time until now the claims have not been as much as they were prior to that time.

The COURT:

Q. What were those claims for, delays?

A. Claims put in for delays for the injury to the stock because of no arrivals at the yards on time, and shrinkage.

Mr. DAWES: Missing the market?

A. Missing the market, all claims that would come from poor service.

The COURT: You say the C. B. & Q. were better after that they did better?

A. They did.

Mr. COWAN:

Q. Did you have any conference with any other railway representatives beside the Burlington?

A. I live on the North Western and I have conferences with the North Western people very frequently about some things that we want changed. Sometimes I am able to secure them and sometimes not.

Q. Are you able to state whether the service has improved or not within the last year?

A. It has very greatly. It is nearly back to its old place.

The COURT: How about the Great Western, do you have
1850 anything to do with that?

A. I only live 12 miles from the Great Western but I am not acquainted with the Great Western people.

Mr. SEVERANCE: We are exonerated then.

Mr. COWAN:

Q. Previous to the time of this bad service that you spoke of, from your investigation of the matter, were the claims greater or less than they were during the period of the bad service?

A. You mean prior to the time——

Q. Of the poor service. You say——

A. The claims were nearly double during that time.

Q. And that was due to what?

A. The better service, less complaints.

Q. You mean that double the amount of the claims was due to the better service?

A. No, the other way.

Q. Are you able to state what proportion of these claims were paid, Mr. Ames.

A. No, I am not. I know there are not a very large proportion of them paid and a great many claims that are entitled to be paid are never entered.

Q. You mean never filed?

A. I mean never filed.

Q. Do live stock shippers always make a claim every time they miss the market?

A. No, it is the rule the other way. It is the exception that they make a claim.

1851 Q. If the railroads would give to the live stock shippers of Iowa, that service which they purport to give, leaving your place for example, when you load expecting to make the next day's

market, you load, say at nine o'clock in the morning, would there be any claims for damages?

A. There would be no claims for damage except in cases of accident or wreck or things of that kind.

Q. Any freight is liable to that?

A. Anything.

Q. Are you acquainted with the matters pertaining to the service of receiving and loading the cattle in the state of Iowa?

A. I am.

Q. Do you know the character and value of the stock yards in use in the state of Iowa, the expense of the maintenance of those, that is to say, the things that are done in the way of the maintenance of those stock yards on the lines of the Burlington, The North-Western, The Milwaukee & St. Paul, The Great Western or the other roads, and you can name such roads if there are not, where you are not acquainted with the stock yards facilities and those where you are.

A. Well, in answering a question of that kind it would have to be on the basis of averages.

Q. The first part of the question——

The COURT: Do you know about it?

A. I do.

1852 Q. You had better tell what you do know.

Mr. SEVERANCE:

Q. Tell what you do know about it on any of the branches or whatever way you please.

The COURT: I would describe what I knew about the different roads and give some of the details.

A. I will take the North-Western Road first because I am more familiar with that than the others, having been along nearly their entire line, and I will say that the North-Western Road, I will say for them that their stock yards are in the best condition of any roads in the state. That their pens are white-washed once a year and are cleaned once a year. They are nearly all paved with ties and cinders so that the man that handles his stock in them has a reasonably comfortable place to do his work. The pens will average over the lines, four pens to the yard. By four pens, I mean four pens that will hold two loads of cattle. Those pens are shedded 16 feet wide. The whole yard is 96 feet square, as a rule. Taking the cost of the material at the retail price, a pen of that kind now would be worth a thousand dollars, as near as a person could estimate. Then this estimate is on the new yard including the water supply, the pipes and tanks and approaches, the gates and all that goes with it.

1853 Mr. DAWES: The scales?

A. Scales and scale-houses.

Mr. SEVERANCE:

Q. The side track?

A. No, not the side track, I am talking about the yards.

Mr. COWAN:

Q. Now what is the cost, the approximate cost of repairs?
A. Oh, it is very little.
Q. And the maintenance of those yards?

Mr. SEVERANCE: I object to that as incompetent and immaterial and no foundation laid for it, and as it is not rebuttal.
The COURT: I think he may answer. These North-Western yards he seems to be well acquainted with them. I think he has given them a pretty fair show.
(The question and answer were then read.)
The COURT: That don't amount to much.

The WITNESS: I can enlarge on that answer and I will say that my feeding yards are a quarter of a mile from our stock yards; that before the North-Western came in I was shipping continually from the yards at Traer on the Rock Island, the old B. C. R. & N. at that time. The repairs on our home yard will be the expense of white washing the yard once a year; the cleaning of the yards, which, in our case, is done by the section men as a rule.

1854 The COURT:

Q. You nail on boards once in a while when they break off?
A. I was just coming to the boards. There is only one or two places in our yards that need repairs so far as breakage is concerned. They are built of posts and plank and the planks stand. Some of the gates will get out of repair and a hinge now and then and it will be necessary to repair that but with the exception of the loading gates—they will have to be repaired once a year. Outside of that there is very little repairing in connection with the stock yards when well built.

Mr. COWAN:

Q. What in dollars and cents would you estimate it per year or a longer period of time, if you please?
A. Well, I don't think that the repairs and improvements on the stock yards of my town would be to exceed ten dollars a year. I think I would undertake to do it for that.
Q. What sized pens are they?
A. They are the pens that I described.
Q. And that is the average of the North-Western pens?
A. That is the average of the North-Western pens outside of the terminals, and the feeding pens.
Q. Outside of the terminal yards?
A. Yes sir.

1855 Q. Now, Mr. Ames, will you compare the yards on the North-Western which you have described with the yards on the Milwaukee and the Rock Island, and other roads that you are acquainted with in point of their value, and the sort of the yards.
A. On any road, whether it is the Rock Island or the Milwaukee or any road that goes through the state of Iowa or in any other country as far as that is concerned, wherever you find a good feeding

district, you will find well equipped yards, but in localities where they are moving other kinds of freight, grain or where they are not feeding, the yards are much less expensive than the yards I described. They are often times—invariably made of inch boards and have been there from the time that the road started, and the wear and tear of the elements has placed them in a condition that is not—They are not worth a great deal of money.

It would not have cost very much to build them of the kind and often times too, in a locality of that kind, in place of being four pens there are two and sometimes one.

Q. What would be the average of the value of the pens on the Rock Island road, leaving out the division points?

Mr. SEVERANCE: He has not said that he knows that.

The COURT: Find out what he knows about that.

1856 Mr. COWAN: I had understood him to have already answered that he was acquainted with the stock yards at the very outset.

Q. Are you acquainted with the stock yards on the Rock Island road?

The COURT: He has explained his acquaintance with the stock yards on the North-Western road. Now, let him go on with the others?

A. I will take the Rock Island Road, with the exception of a few principal points.

Mr. DAWES: The question is what do you know about it, that is the first question.

Mr. COWAN:

Q. Have you seen the pens on the Rock Island?

A. I have shipped out of them. The yards that I speak of are yards that I have used and shipped out of.

Mr. DAWES: Be kind enough to say where they are located.

A. The yards at Traer on the Rock Island road is above the average and they will cost more than a thousand dollars because they are equipped with cement floors and are white-washed and built in an up to date manner, but Traer is a comparative point and in order to get the shipments they have made the stock yards——

Mr. DAWES: I object to that, assigning motives to us.

1857 The COURT: Objection sustained.

The WITNESS: The yards are in good condition, but in other points, the average up the road, further up the road, the yards are not worth, are not as good as the yards that I have described on the North-Western road.

Mr. COWAN:

Q. How do the yards on the Chicago, Rock Island & Pacific—You have seen them clear along the line, have you?

A. Yes sir.

Q. How do those yards along the line of the Rock Island compare in point of cost, on the average, with the yards on the North-Western?

A. Well, I would place the average at 60 per cent. less—or 40 per cent. less, 60 per cent. of the price.

Q. With respect to the matter of cost and maintenance?

A. Oh, I don't think there is any more cost of maintenance in one than the other. The more a yard is used the more expense there will be possibly in breakage and cleanage.

Q. How is it on the Milwaukee & St. Paul?

A. Well, the custom in all those yards on all these roads, when it comes to a small yard, is much the same there is very little difference in them. If it is a large enough shipping point so that they require four or six pens, they will put them in but if it is not, they will only build one or two, those are the pens that are built
1858 very cheaply and it costs very little to keep them in repair.

Q. When you say "very cheaply" how much is a two pen yard worth such as is actually used in Iowa?

A. I don't think a two-pen yard would be worth over $500.00. It could be built for less money because it is not floored, and often times there is no water.

Q. And a one pen yard?

A. It would be half of that.

Q. What proportion are the one pen yards that you were speaking of to the whole number of stations in the state of Iowa, what proportion are the one pen yards and what proportion are the larger yards, in point of number?

A. I would not want to answer that question of proportion because I have not made an accurate count. I would not know but I will say there is quite a number of what we consider one pen yards.

Mr. DAWES: I object to that. That is so indefinite.

The COURT: Let the witness be conservative. The question is objectionable, and he says he cannot answer it.

Mr. COWAN: And what of the two pen yards?

The COURT: If you don't know, say so.

Mr. COWAN:

Q. Do you know whether or not there are more two pen yards than there are four pen yards?
1859 A. No, I would not think there were.

Q. Are there more four pen yards than there are one and two pen yards?

A. There are more four pen yards than any other number, of all the yards, I think.

Q. If you were placing an average on all the stock yards in the state of Iowa, take it just as it ran, what do you believe the average would be?

Mr. DAWES: He has just said that he could not tell. I object to that. He definitely said that he did not know.

The COURT: Objection sustained.

Mr. COWAN: I did not understand that he said he could not tell.

The COURT: Well, what would it amount to?

Mr. COWAN:

Q. Now, in the amount of dollars and cents, did you state how much per year?

A. I said about ten dollars a year.

Q. That was for the maintenance of the yards?

A. Yes sir.

Q. To what extent are the railroads interested in the matter of receiving the live stock that are loaded at their stations in Iowa for shipment to Chicago, what expense are they at?

A. The maintenance of the yard is all.

Q. The shipper loads the stock?

A. He certainly does.

Q. Who furnishes the bedding?

A. The shipper.

Q. What sort of bedding is used?

1860 A. As a rule, hay or straw.

Q. There has been something said here in regard to the spraying of hogs in shipment to market. Explain how, when and where that is done?

A. A shipment of hogs in the hot weather of the summer time, it is very necessary that those hogs be kept damp or they will become overheated and die.

As soon after we get them loaded as possible, we have got some means of getting water on them, sprinkling them so as to keep them from getting too hot. In a great many of the yards, not all, but in a great many, we have a force pump and hose.

Mr. DAWES:

Q. Do you mean the company or an individual?

A. The company has a force pump, the individual usually furnishes the hose and after the hogs are loaded we will take this hose and spray the load of hogs.

1861 Mr. COWAN:

Q. That is right at the place where they are loaded?

A. That is right at the place where they are loaded. Of course, if it happens to be at a water-tank where we have a water supply in place of the force-pump, they use that pressure, and wherever there is facilities for pressure, it is used in place of the pump.

Also when the hogs are in transit, they become warm and particularly if they are — a division end, where they have to lay between two trains for any length of time, as they nearly always do, from one to three hours, it is almost absolutely necessary that those hogs be got to water as soon as possible, and on the line of roads about every fifty miles, or natural stopping place for a stock train, they have a pipe equipped with a spray nozzzle.

As they pull the train by, at a slow rate of speed, about as fast as they do for the scale, a man stands there who elevates this nozzle and throws a stream of water right in on to the hogs as the train is pulling by.

That is the custom of watering on nearly all of the roads. I might say all of the roads. Some use a hose in place of the stand pipe, but it is immaterial, it operates the same.

Q. Who does that?

A. The man that loads does that at home. The company, the railway company, the brakeman, the head brakeman usually
1862 on the train attends to the spraying of the hogs en route.

Q. Do they stop a train for the purpose of doing that?

A. No sir.

Q. They do that at the same place where the train is stopped?

A. It is always at a water station, and the engine will take water and as the train pulls out, the spray is turned on the hogs as they come by, and shut off when the cattle come.

Q. Simply a pipe and a nozzle there for the purpose of throwing that water in?

A. Yes sir.

Q. And the head brakeman does that as the train pulls out?

A. Yes sir.

Q. And gets on the train, and you go on?

A. Yes sir.

Mr. SEVERANCE:

Q. How is it done at the division points that you spoke of?

A. We don't get it at the division points as a rule. At the division points we are laid in on the siding, usually between two other trains, and that is the time that our hogs smother. That is, we cannot get water there, it is impossible. I don't know of a division point anywhere where we can water our stock.

Mr. COWAN:

Q. You said that hogs or other stock lay from an hour to three hours at division points. Why?

A. We shippers think it is because they had not made their arrangements just right.

1863 Mr. DAWES: I would like to have that stricken out. If he knows a definite reason, that is different. I do not think we ought to have what he thinks.

The COURT: Well, I know.

Mr. COWAN: Have you made inquiry to ascertain the fact of railroad men at these division points so as to know?

Mr. DAWES: That is objected to.

The COURT: Do you know of the reason, do you know of any fact of your own knowledge?

A. The best way I can answer that, your Honor, would be to give the history of the last load of stock that I brought into Chicago. That is a fact that I do know.

Mr. COWAN: Well, go ahead.

A. We left Buckingham on time at 11:20.

Q. A. M.?

A. A. M., on train No. 124.

Mr. DAWES: On what road?

A. On the Northwestern. We ran 29 miles to the division end, and arrived there on time at half past one. We laid there until half past three waiting for No. 132 to come from the west to pick our stock up and go to Clinton.

On No. 132 we found stock men that had stock cattle loaded from Omaha at four o'clock the previous day, also from Leschwig, Iowa, at four o'clock on the previous day. This was on September 5th and they loaded on September 4th at five in the afternoon. We arrived at Clinton with 35 cars of stock at half past nine.

1864 Mr. COWAN:

Q. P. M.

A. P. M. making 27 hours and a half from Leschwig and Omaha and with a slight delay went on to Chicago, arriving here at 7:30 the next morning, picking up four cars in Illinois, on the way. We laid out at Clarence an hour for another train to go by.

Q. Going which way?

A. Going to Chicago?

Q. Going in the same direction?

A. Going in the same direction we were.

Q. What sort of a train was that?

A. It was a dead freight. The quality of the shipments I could not say.

Q. Do you know whether they were refrigerator cars?

A. Part of them were.

Q. How many cars did you arrive at Chicago with?

A. 39 cars.

Q. Live stock?

A. Live stock.

Q. How far is it from Clinton to Chicago?

A. 138 miles.

Q. Now, you may state whether or not that is a fair sample of the——

A. That is a fair sample of the runs, yes sir.

Mr. DAWES: The question here was what was the reason that there were delays at division points. If there is the slightest indication of a responsive nature in that answer to that question, I would like to have it pointed out.

1865 The COURT: Well, what was the reason?

A. The reason was *before* No. 132 was not there and did not arrive at Belle Plain until two hours after our stock was there, and there was no way of getting the stock to Clinton until that train arrived.

The COURT: Well, let that stand.

Mr. COWAN:

Q. Did your train lay at Clinton any time?

A. Not any.

Q. Do you know the relative schedule or the relative time that is taken in the transportation of a train carrying dressed meat and the

transportation of a train carrying live stock to Chicago over that line of railroad?

A. I do.

Q. State it.

Mr. SEVERANCE: I would like to have him first state what he knows.

The COURT: I did not hear that.

Mr. SEVERANCE: I would like to have him first asked how he knows.

The COURT: Yes, tell how you know first.

A. In buying my feeding cattle, cattle for the feed yard, I buy a great many of them in Kansas City and Omaha or on the range. When I am in either Kansas City or Omaha, in order to get my cattle home, if it is a possible thing, I get them loaded out on a meat train. I necessarily must find out what time that train starts,
1866 and it is a very easy matter to find out what time the train is scheduled into Chicago. That is the knowledge that I have in regard to the meat trains so far as their time is concerned.

Mr. COWAN:

Q. Now, on the stock trains, how do you know about them?

A. The stock trains, I know about them from handling and loading stock on the different trains and the different roads all my life. I think I know about how the stock trains are run from the State of Iowa to Chicago.

Q. Now, you may answer as to the relative speed at which the stock trains and the meat trains are run?

Mr. DAWES: He has said definitely that the only information he has as to the speed of the meat train is from the tariffs.

The COURT: And from riding on both of them?

A. Yes sir.

Mr. DAWES: As I understood his answer he could tell from the tariff the time of arrival of the meat trains in Chicago, and that was the way he knew the speed of the meat trains. Am I not right?

A. I wanted to say——

Q. Wasn't that your answer?

A. My answer was this, if I remember correctly, that I knew the time the train started, and it was very easy after once being
1867 on that train and riding for a half or 2/3 or 3/4 of the distance to Chicago, to know the time the train was scheduled.

Q. You get that from the tariff, do you not, the timetable?

A. I have not ridden on a meat train all the way from Kansas City to Chicago.

Q. All you know then about the speed of meat trains to Chicago is from the time-table is it not, isn't that so?

A. No, not all that I know about them.

Q. Or what people have told you?

A. I know—I see these trains on the road. I know the time they start, and I am here in Chicago when they arrive. I think I ought

to know something about—I could not say any one definite thing, but those trains are all coming in regularly the same as a passenger train does. If I am here at the depot and see a passenger train come in that I know comes from my part of the country——

Q. Of course, when you are down at the depot, you know what time a passenger train starts?

A. You know that from the schedule.

The COURT: Can you tell from riding on both trains about how fast each one is going?

A. I think I can.

Q. Which is going the faster?

A. Yes.

Q. Have you ridden on both of these trains enough in order so that you can form a judgment on that?

A. I have.

1868 The COURT: Well, you may answer. What is the question. How do they compare in speed?

Mr. COWAN: Yes sir.

The WITNESS: I will say that after the stock is once assembled and consolidated into one solid train, and lined up on the main line, that there is very little, if any, difference in the speed of the two trains. The delays occur in the live stock from the assembly trains and from holding those trains at division points to get them into line. There have been incidents in my shipments, many of them, where a meat train will go by our stock train. But I don't think that is the rule, that is rather the exception.

Mr. COWAN:

Q. Now, do you know of any instance wherein a stock train has pulled by a meat train in the absence of some accident to the train?

A. Oh, no, we are never so fortunate as that.

Q. You have been giving special attention to the matter of service for the last few years, Mr. Ames?

A. I have.

Q. Are you able to say whether or not the matters you have related in respect to it are applicable to the live stock shipments and the shipments of dressed meat and packing house products which pass over those roads coming to Chicago?

A. I did not catch that.

Q. Generally from the State of Iowa. You have given certain instances. You have detailed certain conditions that exist.

1869 I want to ascertain whether or not those instances apply to the traffic from the State of Iowa to Chicago both as to dressed meat and as to live stock?

Mr. DAWES: I object to that, unless he is more specific.

Mr. COWAN: Take the point of the relative speed, which you have just described.

Mr. SEVERANCE: He should give nothing except what he has seen himself.

The COURT: Answer the question from your own knowledge.

Mr. COWAN: Were you going to make some answer about it?

A. I was going to say that there is no reason——

Mr. DAWES: Now, I object. It is not reasons we want, but facts.
The COURT: Overruled. Let him answer.

A. There is no reason after the trains are consolidated why one train should run faster than the other train unless it would be that one train was heavier than the other train or else the engine is not as good.

Mr. COWAN:

Q. Previous to the time that the live stock train is assembled and consolidated into a solid train, what is the character of the speed then as compared with the dressed meats and packing house products train?

A. Well, the assembly trains never are scheduled for so high a rate of speed. They have to allow for the picking up of a stock car and putting it into the train which occupies possible from
1870 one to five minutes.

Q. Take some instance which is illustrative of the whole of your experience with respect to the assembling and picking up of live stock cars, and putting them into the train and explain to the court, the manner in which it is done and the service performed, and the time it takes. Take some branch line, or a main line where that is done.

A. I will take a train which starts from Mason City in the morning. I cannot give you exactly the time it starts but it is my impression it is eight o'clock. It is very near there, may be a few moments one way or the other. They will start out with the stock that has been brought in off from the north division of the road, to that division end. It may be two to five or eight cars.

Q. Is there any other freight in there in that train?

A. The balance of the train—it is usually a light train when it starts, but if there is any dead freight, that comes that is to go down the line, of course, it is put in on to that train. It is not a stock train entirely. It handles all the freight with the exception of way freight.

Mr. DAWES:

Q. Is there any carload freight from Mason City into Chicago?

A. Yes.

Q. How often?

A. Well, we have a train that comes down from Mason City that takes all from the other side——
1871 Mr. DAWES: On this train, I mean.

A. It may not be loaded exactly at Mason City, but it will be noted at Cresley or some near by point.

Q. I am talking about outside of live stock, does this train get any carload freight outside of live stock?

A. It gets oats, and barley and corn in season.

Q. How often?

A. This time in the year there is never a train comes down without a carload of something like that.

The COURT: Now, go on and answer the question.

Mr. COWAN: Go on as to the manner in which that trains performs its service?

A. At every station where there is a car of either live stock or grain to be put into the train, the engine is taken off, goes to the switch, backs up to the siding, hitches on to the car, and pulls it out and puts it on to the train.

Q. And then goes on?

A. And then goes on to the next station.

Q. And the same thing is repeated there?

A. Exactly. One station after the other, wherever there is any freight to be added to the train.

Q. How far is it to the first division point?

A. The divisions are usually in the neighborhood of 100 miles. I think from Mason City to Belle Plain it is 109 miles.

Q. By the time it gets to Belle Plain will the train generally be full?

A. They have a full train, but not always of stock.

1872 Q. That is a mixed train?

A. That is a mixed train.

Q. What is done there?

A. If there is a train west of there on the main line, or if there is enough stock comes in from the south branch, enough stock and freight, they combine the two into a heavier train on the main line and carry that direct to Clinton. If we happen to be on No. 132 we will pick up from Belle Plain to Clinton stock that is intermediate, at intermediate points, add one, two, three cars as the case may be.

Q. How many cars would there be in that train ordinarily?

A. About forty cars is what they would average from 35 to 40, as the case may be.

Q. Do they make it all stop at Belle Plain?

A. Not always, no. Usually not. We hardly ever get out of Belle Plain with a full train of stock. We do sometimes get a train that comes from Dakota or Minnesota or some of the western trains that will be a full stock train.

Q. How many cars is that, a full stock train?

A. Well, there is very little difference. I think the Northwestern trains as a rule run a little lighter in cars, about thirty, than the trains that are made up through Iowa.

Q. How is that?

A. I think the trains that come from the Northwestern Territory, the average stock trains, are as a rule, a little lighter trains

1873 than the trains that are made up through our State.

Q. Take a train that has been made up in your State and not hooked on to one that has come through from the Northwest, at Belle Plain, and you have got a full stock train, how many cars will it be?

A. Forty cars, that is a full train.

Q. That is, then you come on to Clinton as a live stock train.

A. Clear through, if we have forty cars, we hardly ever have any additions.

Q. In coming through what stops does that train make?
A. Not any except for water or for crossings.
Q. Only for water and crossings?
A. That is all.
Q. Say, it has a regular run right on through?
A. It has.
Q. What is the usual speed, the average speed in point of miles per hour of that train?
A. On the main line, Belle Plain to Clinton, the speed of that train will vary from five and a half to six hours.
Q. How far?
A. That is 114 miles.
Q. Five and a half to six hours?
A. Yes sir.
Q. And from Clinton to Chicago?
A. From Clinton to Chicago we are from seven to eight hours.
Q. How far is that?
A. 138 miles.
Q. How long is the usual stop at Clinton?
A. Well, usually not long. If we have anything like a
1874 full train, or if there is a train coming in, two trains that are half stock each, they are combined together, and we start as soon as they get hooked together. Not to exceed half an hour.
Q. Do you know whether or not there are any rules or regulations with respect to the time that these stock trains are supposed to stop, or are directed to stop at division points?
Mr. LYNDE: Regulations of whose?
Mr. COWAN: The railroads, of course.
Mr. LYNDE: Who do you mean?
Mr. COWAN: I often am not exactly specific, I suppose.
Mr. LYNDE: You asked him if he knew.
Mr. COWAN: Yes, I mean the railroads which direct the trainmen as to how long stops shall be made at division points.
Mr. LYNDE: Do you know, Mr. Ames?
The COURT: Do you know or not, about the rules and regulations?
A. I know——
Mr. LYNDE: Just answer the question.
The COURT: Do you know the rules and regulations? Did you ever see them or did any railroad man ever tell you about them?
A. I have been told, yes, by railroad men.
1875 Q. Who told you?
A. Railroad men.
Mr. SEVERANCE: I think the best evidence would be the printed rules.
Mr. LYNDE: We will produce any rules you want, if we can.
Mr. DAWES: We will produce any rules we have.
The COURT: Answer the question.
A. The rules are to get the stock out just as soon as they possibly can.
The COURT: They wont deny that, I guess.
Mr. LYNDE: We claim that ourselves.

Mr. COWAN: I know what the rules are on some of the roads, but not on all of them.

Mr. LYNDE: We will produce any rules that we have got.

The WITNESS: I don't think there are any printed rules on that subject, because it is a question that is very flexible.

Mr. COWAN: When you come on from Clinton to Chicago, what is the time that you usually arrive in Chicago?

A. We will vary from four o'clock in the morning until ten.

Q. Does the same crew which brings you in carry your train to the stock yards?

A. It does.

Q. The same engine?

A. The same engine.

Mr. SEVERANCE: On what road?

1876 Mr. COWAN: I think they do on nearly every road.

Q. You said with the Northwestern, did you, or how is it with the Northwestern?

A. Well, the Northwestern does, I know.

Mr. LYNDE: Which do you say?

A. The Northwestern do, I know.

Mr. LYNDE: You are in direct conflict with the General Manager of the road on that proposition.

Mr. COWAN: You are mistaken about that.

The WITNESS: That is easily settled, if any of you will take the time to go down there and ride on one of the trains you will find out.

Mr. COWAN:

Q. How is it on the other roads, what crew brings the train into the stock yards?

A. Well, nearly all the roads do. I have not been on the other roads recently enough for me to say, but I think they have made some changes. I cannot say and I would hate to testify on that.

Q. When you were on the other roads, how was it?

A. The Rock Island trains used to bring in their stock as far as——

Q. Blue Island?

A. Blue Island. Then they put on their switch engine and bring it in from there, but I am almost positive, and I would not want to testify about it. I was out there yesterday——

1877 Mr. SEVERANCE: Then don't testify about it.

Mr. COWAN: You were down there yesterday?

A. I was down there yesterday, and I am satisfied that it is.

Mr. SEVERANCE: I move to strike out the gentleman's satisfaction.

The COURT: If I strike that out, I will have to strike out most of your testimony if I follow the same rule.

Mr. SEVERANCE: I am sorry to disagree with your Honor's view. The witness said that he did not know.

The COURT: Isn't most of your testimony hearsay, now answer that question?

Mr. SEVERANCE: No sir.

The COURT: Was there any witness on the stand that knew all that he stated of his own knowledge?

Mr. DAWES: We have objected to testimony, and the fact that the other side did not object to testimony which has been made up on the information——

The COURT: It would not have been any good any way. If you will read this law you will see that the object of the law is for the court to get all the information he can.

Mr. DAWES: What, by asking any one on the street?

The COURT: Yes, if he wants to do that. That would not be error. That is the first proposition. The second proposi-
1878 tion is that this is a chancery case, and the court is presumed to consider only competent evidence. It is not necessary to make such technical object-ons.

Mr. DAWES: Not withstanding the familiarity of the court with the rules of evidence, I think your Honor is aware that the impression made by testimony upon a receptive mind or upon a judicial mind is somewhat variable. You are unable to separate the wheat from the chaff. We are not introducing these objections for the purpose of delay, or for any other reasons, except what we believe to be our duty.

The COURT: I understand all that. The objection is overruled.

Mr. COWAN:

Q. You were at the yards yesterday, and you saw a Rock Island train come in?

A. It is my impression that the Rock Island train came in——

The COURT: He has been over that. He says he wont swear to it.

Mr. COWAN: How was it with the C. B. & Q., that is the Burlington, the Milwaukee & St. Paul when you last came in with live stock over those roads?

A. The C. B. & Q. ran their crews to the yards also, and the Milwaukee and the Great Western I could not answer for.

Q. Having given a description of one train, Mr. Ames, without taking the time in respect to the customary method of the
1879 handling of the live stock trains from points of origin to Chicago on that road and on other roads, state whether or not the instance which you have given is similar to the customary method of handling the live stock over these roads to Chicago.

Mr. SEVERANCE: At the risk of displeasing the court I am compelled to object to that as incompetent, and as asking for a conclusion of the witness.

The COURT: Objection sustained.

Mr. COWAN:

Q. In regard to the matter of return transportation, Mr. Ames—First I desire to ask whether it is necessary or not for the shipper, that is to say the owner or some one representing him to come along and look after his live stock?

A. It certainly is, particularly with a man that feeds and markets his own cattle. So much so that many times a man will come in with one carload and pay his fare back in order to see that his stuff, his stock is properly handled, yarded, weighed and sold.

Q. To what extent is that done, men coming in with one car and pay their fare back?

A. Well, more often than is generally supposed. On this train that I mentioned there were two men to my knowledge that came in with one car and paid their fare back.

Q. Has it been the general custom or not in the entire
1880 experience of your life time that live stock men have gone with their live stock in the shipment of them?

A. Always.

Q. Who looks after the stock and transit, for example, you are shipping in two carloads of live stock and I want to know who looks after those stock at the different places where you stop in the yards, or in case you get behind a wreck?

A. If there is any looking after the stock to be done, of course, it is the owner that has to do it.

Q. Are live stock trains stopped for the purpose of permitting stock men to get the stock up after they get down in the car?

A. Not now, no.

Q. How is that?

A. Not now.

Q. Do the cattle ride on their feet?

A. Yes sir.

Q. How do the hogs ride, do they lie down?

A. They lie down most of the time.

Q. What is the weight of the bedding, if you have a clean car, and loaded at your place, and shipped in here, and after you have unloaded your cattle, what is the weight of the bedding and refuse in the car?

Mr. SEVERANCE: I will object to that question unless the witness can state that he has weighed it or knows.

The COURT: Let him tell what he knows about it.

1881 Mr. COWAN: State whether or not you know approximately what the weight of the bedding is and how you know, how you estimate it, if you do estimate?

A. Well, I know the amount of bedding that goes into the car approximately. I know, because I know what the load weighs of the kind of material that we use. We would put on a load of straw or hay from 1200 to 1400 pounds, and that would be used for four cars. That is the amount of straw or hay that goes into a car and is about the usual amount shipped in that country, for a clean car.

For hogs, many shippers do not use any bedding at all, except coal and corn. In some parts of the state the shippers use some sand, a small amount of sand over the car, but the hog men through the state don't like sand so well as they do coal or slack, something of that kind. They put in probably 300 pounds or 200 pounds of slack and ten or fifteen bushels of corn into a hog car.

Mr. COWAN:

Q. Now, back to the question of the -eight of the bedding, and manure that is left in the car when you unload? How much will it weigh?

A. I stated that we put into the car not to exceed 500 *points.*

Q. You said 1200 to 1400 pounds for four cars?

A. From 1200 to 1400 pounds for four cars, that was the statement, that is the way we usually bed them. If we use any
1882 sand, if we use sand at all, we will take a yard of sand for about three cars. A yard of sand will weigh a little over a ton.

Q. Do you think so?

A. Yes sir.

Q. Now, then there is left in the car in addition to the bedding, except that which has worked out in transit, what?

A. The natural shrinkage of the cattle, the natural offal.

Q. Except what is evaporated or worked out?

A. Exactly.

Q. What do you think it will weigh?

Mr. SEVERANCE: The same objection.

The WITNESS: I don't think it would weigh very much, because, as the cattle leave the car and come in and out, there is not very much difference in the car. You can take a drove of 200 cattle and drive them over the scales and after you have got the first two or three drafts on your scales, your scales remain about the same. They will carry off as much as they carry on. It is the same way with the car. You put your cattle in, and they tramp it up and they carry it out on their feet until I would estimate that the car weighed about the same as without the bedding in.

Q. Is it a fact that a good deal of the bedding and stuff works out under the slats en route?

A. It certainly is, yes sir.

Q. The urine and dung leaks out?

A. It is a tight board floor, and if it is water it will run
1883 away.

Q. What do you think would be a conservative estimate of the weight of the bedding from a clean car as you would put it in there at your place, after you have unloaded your cattle, if taken out and weighed?

A. 500 or 600 pounds.

Q. Now, in regard to the matter of the abuse of the return transportation. Have you made any investigation in regard to that matter in connection with your official position?

Mr. SEVERANCE: I object to that as immaterial. The transportation is used any way. The transportation is used and the railroad is liable for the expense, no*t* matter who uses it.

1884 Mr. COWAN: The point on that, if your Honor please, is this: I think it is important, and I propose to show by the witness the fact that at the conference they held at Des Moines, that the return transportation at that time had been taken out, and the

question in regard to the abuse of this transportation was then discussed between the railway representatives and the stock men of Iowa. I propose to show what that discussion was; I propose to show that the stockmen then stated to the railways that if the return transportation was abused, it was the fault of their agents, and explained to them how it was, and the stock men did not themselves want to abuse the transportation, they only wanted to use it for legitimate purposes, and if the merchants and doctors and lawyers traveled upon it, it was because the agents at those stations made uses of it for the purpose of permitting their friends and acquaintances to travel, and the stock men were not to blame for it. I think that is certainly material.

The COURT: The objection is sustained.

Mr. COWAN: I propose, further, to show that it was then suggested that the stock men would be perfectly willing for the railroads to make any reasonable regulations that would insure it that only stock men or some one employed by them to look after the stock, made use of and secured the use of this return transportation.

1885 The COURT: The offer is overruled.

Mr. COWAN:

Q. Mr. Ames, are these cars cleaned on every trip, so that you are furnished a clean car every time you ship; if not, to what extent are they cleaned, and what seasons of the year does the cleaning apply to?

The COURT: Ask one question at a time, Mr. Cowan.

Mr. COWAN: Strike that question out.

Q. Are you furnished a clean car for every shipment?

A. No, sir.

Q. What proportion of the time are you furnished a clean car?

A. Well, a very inconsiderable portion of the time the cars are cleaned. During the winter time the cars get in very bad condition. It is almost impossible to get the doors open, particularly cars that have been loaded with hogs. In the spring of the year, the cars are, as fast as they can be handled to the yards, I presume, are cleaned. They are cleaned at the spring of the year, and after that if the car is used for hogs continuously, possibly once more, but not very often. The shipper does not object to that so much, however. It is oftentimes a benefit, rather than not, if the car is not filthy; but, as a matter of fact, the cars are not cleaned to exceed twice a year, I would not think they were to average that much.

1886 Q. When you receive a car that has been used before, do you put as much bedding in it as if it were a clean car?

A. Oftentimes I do not bed it at all, that is one advantage.

Q. Yes.

A. Oftentimes no bedding is used.

Q. Who sets the cars at the place where they are loaded?

A. If we have one car, if we are only loading one car, the way freight that brings in the empty car will usually set it at the chute, or very nearly the chute. If we are loading six or seven cars, or ten,

or part of a train, we set all the cars except the first one, do the switching ourselves and get them ready to put onto the train when the train comes along with as little delay as possible.

Q. How do you do switching yourself, you don't have any engine, do you?

A. No; we will use our horses, our teams. We usually have, in shipping that many cars, we will have six or eight or ten men, and we will have a pinch bar and pinch the cars to start them, and push them on down on the siding, as many as the siding will hold. In my own case I had a span of horses that I switched 12 or 15 or 16 cars with.

Q. Is that usual and customary throughout the state?

A. It is. That is the usual custom wherever a man is shipping, is to have his cars ready to put onto the train, if it is possi-

1887 ble.

Q. Who furnishes the bedding that goes in the cars?

A. The shipper.

Q. How are your live stock cars distributed? Take, for example, say, 800 or 1,000 cars brought in here on a Monday by the Northwestern or the Burlington, do you know the method and manner of distributing those cars for another heavy shipment?

A. I think I do.

Q. State it.

A. These cars are put onto a train, started back to the other end of the divisions, other end of the road; put in heavy trains, twice—sometimes three times as many cars as are coming in loaded, empties going back. At a division end so many of these cars are left to go up that line to be distributed along at different points where there are shipments in prospect. For instance, at Belle Plain, there will be 30 or 40 cars dropped out of a train, and they will be started up the next morning on the Belle Plain and Mason City branch.

Q. In an extra train or a regular train?

A. An extra train. In heavy traffic times; a regular train when it is not so heavy. Sometimes two trains, I have seen two and three trains of empties pulled by to be distributed between Belle Plain and Pierre, of those empty cars.

Q. Well, now, what becomes of those engines that distribute

1888 those trains, do they come back light or pick up other stock and bring it in?

A. They usually pick up other stock or other freight, although they do sometimes dead head back.

Q. Now, Mr. Ames you live in a corn country, don't you?

A. I do.

Q. Are there extensive shipments of corn in that country?

A. Yes, sir.

Q. Does that run regularly or is it shipped in spells?

A. Well, it is more regular than some of the other kinds of freight, commencing the last—during the winter months, the last part of winter.

Q. Now, how do these cars for corn, how do they get there?

A. For corn?
Q. Yes.
A. Many of them come in empty. Some few are loaded with coal or with lumber or with posts. Many of our stock cars are brought back with coal in, posts as well.
Q. And how are they distributed for the purpose of getting the corn?
A. Well, the empty cars are distributed in the same manner, perhaps on the same train, if it is the mixed train, as the stock cars.
Q. And how are they picked up to be brought back?
A. The same way, and on the same train that picks up your stock, almost invariably.

Q. In the heavy movement of the corn traffic, are there
1889 any greater portion of cars that come there to get corn which are loaded already when they come than of live stock cars, which come to get live stock, in proportion to the total number?

Mr. SEVERANCE: What do you mean, loaded live stock cars?
The WITNESS: Empty cars for live stock loads.
Mr. SEVERANCE: That isn't what he means.

Mr. COWAN:

Q. Whether the live stock cars that come to get your stock have a greater or less proportion empty?

The COURT: Compared to the number of empties.
Mr. SEVERANCE: That is what he means.

Mr. COWAN:

Q. Whether they have a greater or less number loaded when they come there than the cars that come for corn have loaded?
The WITNESS: Can I answer that?
The COURT: Yes.
A. I would have to answer it on a comparative basis, because the location that ships the live stock seldom ships the grain and the corn. There will be a live stock vicinity that feeds the corn, and here is another one within twelve miles, as it is in our place, Dysart, that ships the corn. Now, each one of them will get empties in the heavy traffic time, but they are in two different places, and comparing the two——

1890 The COURT: How as to the comparative number?
A. The comparative number would be but very little different.
The COURT: That is what he wants.
Mr. COWAN: In both cases most of the cars come empty?
A. In most cases, in heavy traffic time.
Q. Now, when this corn is picked up along the Division, that is, one station ships corn and one station ships live stock, is it put in the same train with the live stock and carried on to the main line or divisional point?

Mr. SEVERANCE: He has already testified that, he stated that a few moments ago.

The COURT: Yes; the objection is sustained.

Mr. COWAN:

Q. Mr. Ames, in the manner and method of ordering the live stock cars for the shipments, what rule is pursued with respect to the time before the day of shipment that you give the order for the cars?

A. Why, it is customary to order 24 or more hours ahead, although if we put in an order for a less time and can get it, why, we are that much better off; but we have to take our chances on that.

Q. Is that satisfactory to the railway and railway agents?

Mr. LYNDE: I object to that.

The COURT: The objection is sustained.

1891 Mr. COWAN:

Q. Do you order more cars than you want for the shipment?

A. No; there would be no object in ordering more cars than we want. We know how many loads we are going to load, and we simply order to cover that many pounds.

Q. When cars are ordered, are they sometimes not used for the shipment?

A. Once in awhile such an instance will occur, not often.

Q. And when that does occur, what becomes of that car?

A. Why, they are either used by some one else, or used by the shipper possibly, the next day.

Q. What is the average car loading in point of weight per 36 foot car of shipments from Iowa into Chicago, of cattle?

A. Fat cattle?

Q. Yes.

Mr. SEVERANCE: Now, would he know that your Honor.

Mr. COWAN: Of course, I am assuming that he knows from his extensive experience.

Mr. SEVERANCE: I would like to know his experience, as he is asked not as to his own loading, but the average from Iowa.

Mr. COWAN: Take his extensive experience, I am assuming that the witness knows what it is.

The COURT: Won't it serve your purpose to ask him on 1892 his own?

Mr. COWAN: I will ask you then what you know about the other.

The COURT: Ask him about his own first.

A. Well, my shipments, we make our car loads as near 24,000 pounds as we possibly can. A shipper by experience will find that a certain load will ride more comfortably with less shrink, less damage to the cattle than pounds either more or less.

Mr. COWAN:

Q. How does he ascertain that?

A. By experience, by actually loading, actual shipping.

Q. What sort of a load does that?

A. 24,000 pounds with fat cattle.

Q. Now, with respect to filling the car, do you attempt to simply fill the car?

A. We want the car so that the cattle will ride without any shake or slack, so that they will ride comfortably and we find that with 1200 pound cattle, that twenty cattle will do it; and with 1350 or 1300 pound cattle, it will take one out; and the greater the weight, we reduce the load so that the average load will be 24,000 pounds for a 36 foot car.

Q. You load them so they touch each other and touch the car?

A. Yes, so that they will be neither wedged in or neither put
1893 loose, so that they can weave in the car. If they do, they will get to one end, and then when the slack of the train comes, they will be thrown against the end of the car and bruise them, and get more down that way than they will if they are loaded comfortably so that they will ride close together.

Q. What do cattle weigh—between what weights are the fat cattle shipped from Iowa to the market, fat cattle or other cattle?

A. That will depend on the quality of the cattle. A fat yearling steer will weigh around a thousand pounds; a two-year-old, will weigh from 1200 to 1300; a three-year-old Western steer well fed will weigh 1500 pounds.

Q. How many 1500 pound steers do you load?

A. About 17 cattle.

Q. How many 1400 pound steers do you load?

A. About 18 cattle.

Q. How many 1300 pound steers do you load?

A. Nineteen cattle; and 1200 pounds, we load 20 cattle. That is the average load of cattle as it comes from the corn district.

Q. Do the live stock cars lie around idle to any extent?

A. Not in our country.

Mr. SEVERANCE: He testified to that.

The COURT: He has been over that.

Mr. COWAN: Not in that form. I asked him when a car was ordered and not used that day, what becomes of the car.

1894 Mr. SEVERANCE: That is simply a conclusion from what he testified.

The COURT: **The objection is sustained.**

Mr. COWAN:

Q. In your observation of the stock cars returned for loading, to what extent are they loaded with other freight, and what sort of freight do they come there loaded with?

A. Well, in the busy season of the year there is very few of the cars that are used for other freight.

Mr. DAWES: He has been over this, your Honor, he said they came with coal, posts, and so on.

The COURT: I think so.

Mr. COWAN: I didn't ask the extent that they came.

Q. Now, in the season that is not the busy season, how is it?

A. We get more cars loaded with other things at that time.

Q. What other things do you see them loaded with?

Mr. SEVERANCE: He has already stated that.
The COURT: I think so, unless there is something different.
Mr. SEVERANCE: Coal and posts.
Mr. COWAN: I didn't ask him the question, he stated it in connection with his answer.
The COURT: Do you think there are other things?
Mr. COWAN: Yes, I think so. I did not ask him the
1895 specific question.
The COURT: Well, go on.

The WITNESS: I don't think of anything at the present, although any commodity, such as barrel goods, or melons or things of that kind, I have seen loaded in that kind of cars, it depends upon the shipment.

Mr. COWAN:

Q. Did you ever see rails loaded in them?
Mr. DAWES: Do they load melons in these dirty stock cars?
A. Yes.
Mr. DAWES: I am sorry to know that.

Mr. COWAN:

Q. Did you ever see rails and ties and lumber loaded in the Northwestern cars?
A. Yes, sir.
Q. Do the shippers from Iowa in your part of the country unload en route to the market at Chicago?
A. No, sir, unless we have to.
Q. How is that?
A. Not unless we have to.
The COURT: Do you mean unload to feed, water and rest?
A. Not to feed and water and rest, no, sir.

Mr. COWAN:

Q. Under what circumstances is there any unloading for that purpose, and how does it happen?
A. The only time when a man will unload and rest his
1896 stock from Iowa shipment, is because he is compelled to load at a time in the morning or a time in the day when it will throw him into the market here at night in place of the morning, then he would prefer to stop at Clinton and some junction point and feed the 12 hours there, and reload, so as to get here in the morning rather than to get here in the evening before; if the trains ran so that the shipment could arrive here in the morning between four and eight o'clock, in place of between four and six in the evening. I don't think there is any shipper in Iowa but what would prefer to have his stock come to Chicago.
Q. Do you know what proportion of the shipments are unloaded en route for the purposes of feeding and water?
A. From Iowa?

Q. Yes, sir.

A. Very small. There are two locations in the western part of the state where they do that, but they do it for the reason I have stated.

Q. In the course of your experience and investigation, concerning the rates, relative rates, on live stock, have you investigated those matters as they pertain to relative rates of dressed meat and packing house products as compared with live stock?

A. Yes, sir.

Q. State, if you know, whether there is any preference or advantage given the shipper of dressed meat or packing house products over the shipper of live stock from Missouri river points or
1897 points intermediate, to Chicago?

Mr. SEVERANCE: What do you mean, in rate or train?

Mr. COWAN: Whether there is any preference given in the rates.

Mr. SEVERANCE: There is no question about the rate, your Honor, why should we spend time on that.

The COURT: I think he has been over that before, anyway, hasn't he?

Mr. SEVERANCE: There isn't any question about it, no controversy.

Mr. COWAN: He was only asked about the reasonableness of the rates.

The COURT: What else is there? The rate is fixed, unless you claim a rebate?

Mr. COWAN: I am asking now whether there is any preference in the amount of the rate. The next question will be to explain how the preference comes to be.

The COURT: I don't understand it, I guess there will be no harm come from it, let us see what there is to it.

The WITNESS: If I understand your question, it is on this basis: That cattle that are slaughtered, that are sold in the market and slaughtered, will dress, on an average, 55 per cent., that is, they will dress out 50 to 60 per cent., but they will make an average of
1898 55 per cent. of dressed meat to the live weight of the animal. Now, if I take a drove of cattle to Kansas City and sell them, half to the packer, and half to the local man who kills and slaughters there, and retain half and ship to Chicago, it places me in a position that I am paying for my rate of freight, from 3½ to 5 cents a hundred weight more than the man that kills the cattle there. He should make a profit on his business, but there is no reason why he should ship two cars——

Mr. SEVERANCE: I object to the argument.

The COURT: Let him finish, let us see the point.

A. Why he should ship two cars for 3 cents a hundred weight, 3½ cents a hundred weight, less than I can ship my one. He condenses two into one, ships them to Chicago and pays a less rate of freight than I have to pay on my live stock, the live animal.

Mr. COWAN:

Q. Now, wherein comes the advantage that he has aside from the advantage that he can reduce the weight?

A. It comes in the advantage of the rate; he is handling the same kind of product for 3½ cents to 5 cents a hundred weight cheaper than I am getting it, putting it onto the same market and competing with me.

The COURT:

Q. Supposing it costs more to carry the live stock, then what?

A. Of course there is a supposition.

1899 The COURT: If it costs 3½ cents more then you would be even?

A. It would if it did cost that, but I doubt very much its costing any more.

Mr. SEVERANCE: I move to strike out the witness' opinion on that, because it appears he has no information.

The COURT: I think I ought to sustain the motion.

Mr. COWAN: I will ask another question for the purpose of the record, not intending to trespass upon the ruling of the Court.

Q. Has the shipper of the dressed meat any advantage in the rate of freight and in the circumstances in addition to the rate of freight in shipping it to Chicago, as against the shipper of live stock from Missouri River points and from points intermediate between the Missouri river and Chicago?

Mr. SEVERANCE: I make the same objection to that, as incompetent.

The COURT: I will sustain the objection; it simply calls for a conclusion. I think it would be proper, the same as the witnesses on the other side have done, to state the two sets of facts applicable, if he states he knows those facts, and then the conclusion after that.

Mr. COWAN: I will put it in another form, another question.

Q. Is the preference of 3½ cents or 5 cents, as the case
1900 may be, in the rate of freight per hundred pounds on the dressed product, given to the shipper of the dressed product, as against the shipper of live stock who has to pay the higher rate from the Missouri River and from points intermediate to Chicago, an undue and reasonable preference or not?

Mr. SEVERANCE: I object to that, that is not the Court's question from the facts.

The COURT: The objection is sustained.

Mr. COWAN:

Q. Do you know of any facts in the investigation which you have made which would justify a higher rate of freight upon the live stock than is charged on the dressed product of live stock from Omaha to Chicago?

Mr. SEVERANCE: I object to that.

The COURT: You can state what the facts are in reference to sending to market, cost of preparing them, and make a comparison such as was made by the other witnesses, not a conclusion but the distinct fact.

A. The comparison that would have to be made would be in the equipment of the cars and the cost of repairing the cars and the expense of the cars. It certainly is cheaper to build a stock car and keep it in repair, than it is to build a refrigerator car. They
1901 can gather the freight, the volume of it is gathered for them, they know they cannot help but get the amount of freight. If the country does not produce the cattle and the stock, and it turns to the corn and grain entirely, why, the country will depreciate, we have got to have the live stock industry in order to get the rotation of crops to hold up the value of the ground, and the equipment for carrying this stock from the feed grounds to the market is less expensive than *it* is the dressed meat—the dressed meat product is more condensed and the train equipment is no greater; the cost of the fireman, and the engineer and conductor and train crew, are just the same, and how it could be made to appear to cost more for the dressed meats than it does for the live stock——

The COURT: Have you heard the testimony of the witnesses here in this case?

A. No, I have not.

Mr. DAWES: Not that the dressed beef costs more than the live stock, as you say.

The COURT: Supposing it appears that they are both too low; supposing the evidence shows that they carry it all and lose money on it, if you figure in everything, have you anything to show that that is not true?

A. You can take a train and start it from our country,
1902 figure the rate on the amount of goods hauled, and you will estimate a train is worth to the railroad company from $1,000 to $1,500 or $1,600, according to the number of cars; you know how many men are employed, you can take the interest on the equipment and it seems to me that that ought to cover the expense and give us the profit or loss on the handling of that kind of product.

The COURT: Are you able to figure this out and show a profit?

A. I don't want to set myself up as a railroad expert, but I can figure out the approximate value of a train running from our part of the country to Chicago surely.

The COURT: It is contended that they lose money if they figure interest and operating expenses, that they lose money on both kinds; some claim they lose the most on live stock, some claim they lose most on dressed beef, what do you know to show that is not true?

A. I, as a farmer and a feeder, your Honor, have been losing money on feeding cattle, but I cannot afford to stop feeding cattle, for the reason—because of the way I have my farm equipped. I have to maintain the fertility of my ground, I have it equipped for doing a certain line of business, and in a series of years I will come out ahead; but if I would segregate, take out one item and say that
that one thing has got to make all the money that I expect
1903 to make off of my plant, it would not be a fair test. There are seasons of the year when some things will lose money, and some seasons of the year when it will make money.

The COURT:

Q. But if they are losing money, can you say that their rates are too high?

A. I can say the rates are too high, because, if the rates were not—if the rates were too cheap, they would refuse to haul the goods.

Q. You don't believe, then, when they say they are losing all this money?

A. I don't do business for nothing, your Honor, if I can help it.

Mr. SEVERANCE: In raising live stock or feeding cattle, you say you are losing money?

The COURT: Some years they do.

The WITNESS: In 1903.

The COURT: That is, when you figure part of it, but when you figure from one year's end to another, figure the manure, and change of crop, and all of that, you think you make money?

A. Exactly. You cannot take any one part of it and make a definite statement covering it all.

The COURT: I understand, go ahead.

Mr. COWAN:

Q. Is it a fact, or not, Mr. Ames, that there is a strife and
1904 a desire among all these railroads each to secure as much of this live stock traffic as they can?

A. Why, of course, if they can get it they are that much ahead, their trains are running, they might just as well haul my stock as not to haul it.

Q. I believe I asked you in regard to the rates in Nebraska and Kansas in proportion to the distance rates in Illinois to Chicago?

A. Yes, sir.

Q. I was going to ask you what the Iowa distance tariff was, I won't ask you that, we have got that tariff which shows what they are.

Cross-examination by Mr. BAXTER:

Q. You spoke about the rates on live stock from Illinois points to Chicago, in comparison with the rates or belt or zone which carries the 23½ cent rate to Chicago, were not those rates from Illinois points to Chicago made by the Illinois State Railroad Commission?

A. I could not say as to that.

Q. You stated that the rates on live stock are too high, the 23½ cent rate on live stock is too high, in your opinion: is it your opinion that the rate on packing house products and fresh meats are also too high?

A. I don't think so, for this reason: if they had been too
1905 high the other fellows would not have paid it, they would not have paid it, they would have got it down to a point where it would not be too high.

Q. You think, then, that the rates on packing house products and fresh meats are reasonably low?

A. I would think so.

Q. Can you give me your idea as to the difference in profit to the

railroad between handling a train load of packing house products and a train load of live stock? I understood you to say you could figure out the profits a while ago that the railroad company could make in handling a particular train: can you figure out the profits on each of those trains so we can see the difference?

A. I think the difference would be just the difference in the rate. They are practically the same kind of goods, handled in the same territory, should bear the same rate. Now, if circumstances have been so brought to bear that a reasonable rate has been established on the dressed meat, we contend that the rate on live stock should be reduced to that point, because it shows by its operation that it is a reasonable rate.

Q. You think that the circumstances and conditions which compelled the reduction of the rate on packing house products and fresh meats have operated to the same extent as affecting the rates on live stock?

A. I think this, that had the people of the State of Iowa,—
1906 had it been possible for them to assemble their live stock and give the shipments to the railroads in the same manner that the dressed meats are given, that they would receive the same rate, if the same pressure was brought to bear.

Q. As a matter of fact, the people of Iowa have not been able to assemble their live stock, cattle and hogs together at particular points like these packing houses have assembled their goods and demanded of the railroad companies the reduction of their rates?

A. But in every instance the stock comes from a less distance, and they get it without any labor. They must have it because it is there for them to get. The only reason why we don't get the rate is because us fellows haven't come together and made a demand for it.

Q. I am glad to hear you say that, because I think myself that is exactly the condition that affects the transportation of these different commodities. The packing house people have got their plants where they have got their shipments concentrated, where they can put pressure to bear on these railroads to force them to accept lower rates on packing house products than the farmers have yet been able to force them to accept on the live stock. I think you are entirely right about it. Now, will you state the width of that belt between the Missouri river and some point that you mentioned out in the state, about a third of the way across the state, how wide is that in miles, from the Missouri river to the eastern edge of the belt, from which the 23½ cent rate is in force?

1907 A. It would vary, I could not draw a definite line.

Q. One hundred and fifty miles, would you say?

A. No, it would be from 100 to 150.

Q. You spoke about a meeting held between the railway officials and the live stock men of Iowa where you had discussed certain grievances; were the proceedings of that meeting taken down in short hand or afterwards published?

A. Not that I know of.

Q. You spoke about the claims for damages that are made by the live stock people; did I understand that you said that one of these

railroads had as many as 130 clerks employed in keeping accounts of the claims and damages made against that company alone?

A. Yes, sir.

Mr. DAWES: And then increased them thereafter?

Mr. BAXTER: Yes.

Q. You spoke about the water at the different stock pens, will you give us an estimate as to how many gallons of water per day are used on an average at a four-pen stock yard?

A. Oh, it would not be very much, it would be very little, perhaps a barrel of water.

Q. A day?

A. Yes, I don't think it would average that the year through, because in the winter-time they don't use it except watering what stock happens to be there, hogs—cattle, never.

1908 Q. How long are cattle in the pens before they are loaded on the cars?

A. It depends upon the location in the State and the time we have to load.

Q. Give us an average.

A. If the train leaves in the morning, eight or seven, or eight,—six, or seven or eight o'clock. These cattle have to be in the night before, because we cannot drive cattle when it is dark. They are then held in the yards there over night and loaded out the next morning.

Q. About what time the next morning?

A. Oh, that will just depend upon that the train that is to pick them up.

Q. Well, will they be in there on an average from 8 to 14 hours?

A. No—you mean on the whole line?

Q. Yes.

A. No, sir, because the majority, the Eastern part of the State, the Eastern two-thirds of the State, or half of the State will drive them in and load out the same day; the Western half of the State will have to drive in the night before and hold them over night.

Q. Now, from your great experience in the matter, can't you give us an estimate of about how long cattle are retained in these stock yards before they are loaded onto the cars?

A. Well, I would judge from the Western half of the State that they would be in the yards 8 hours.

Q. Now, how many cattle will one of those four pen stock

1909 yards contain?

A. Each pen will hold two loads, if built properly.

Q. About 40 cattle?

A. 20—we estimate 20 cattle to the load, when we are figuring a car load, it is always 20 cattle to the load.

Q. Then four pens would hold 160 head of cattle, would they?

A. It would be 160 cattle.

Q. And you think that 160 cattle can be kept in pens for 8 hours on an average without consuming more than a barrel of water?

A. They are never watered in the pens, very seldom.

Q. Well, what do they provide wells, and windmills and tanks for if cattle do not use it?

A. For the hogs.

Q. Then that is for the expense on the hogs?

A. Yes, sir.

Q. Now, then tell us how many gallons of water would be used by hogs occupying the four pens at the stock yards?

A. Well, in the first place the pens are very seldom full at the same time, you build these pens for the accommodation of the local buyer, he will buy perhaps during the week and ship out the last of the week, he will accumulate during that week a car load of animals, cattle or hogs, and he ships them out then on the last of the week for Monday morning's market or for Wednesday's market.

Q. How many hogs will those four pens contain, assuming
1910 that they are all full at the same time?

A. About four loads, if they are handled that way, you can crowd them in.

Q. How many hogs will a car load average?

A. A load of hogs will average right close to 70, 65 to 70, I think the average will run about 70 head.

Q. Then about 280 hogs?

A. You cannot put two loads of hogs in a pen and keep them any length of time, you might yard them that way but it would be a damage to the hogs.

Mr. DAWES: It is more than 70.

Mr. BAXTER:

Q. You said about a barrel a day, was that intended to include the water used by the hogs, as well as for cattle in stock pens?

A. I think so, per yard.

Q. What is your estimate as to the number of gallons required to spray a car load of hogs?

A. They use an inch nozzle, and it takes perhaps 30 seconds to the car, not over a half a minute, and as the train goes by, 30 seconds—it doesn't take that long, it don't take over ten minutes to water 30 cars of hogs. Half of the train will be of hogs, and half cattle, and it is the length of time for the inch nozzle to run that much water.

Q. Well, what is the head on that water, how high is the water tank?

1911 A. It depends on the location of the tank, whether it comes from the City, or whether it comes from the railroad tank, or where it comes from.

Q. Well, take the lowest head, a railroad tank, that would probably be less.

A. About 40 feet head.

Q. And you think that a stream of water going through an inch nozzle——

A. I will not be sure about the sixe of the nozzle, it may be an inch and a half, I wouldn't say definitely as to that but it is not a large stream of water in the spray.

Q. You spoke about a train on which you were traveling, taking a side track to allow another to pass it, both trains moving in the same direction, and, as I understood you, both of them moving towards Chicago.

A. Yes, sir.

Q. Your train had stock in it as I understand?

A. Yes sir.

Q. The other train had some refrigerator cars and dead freight, you say?

A. Yes.

Q. Did you ascertain why the train upon which you were riding stopped at that station?

A. Our train was a schedule train, the other train was an extra.

Q. And do you know whether the engine and any cars on your train were out of fix?

A. There was nothing the matter with our train.

1912 Q. Will you give me the name of the road and the date? And the number of your train and the number of the train that passed you?

A. I can't give the number of the train that passed because it was an extra, it was not numbered.

Q. And the point at which the passing was done?

A. The point of passing was at Stanwood, our train was No. 132, and the passing point was at Stanwood, the train that went by was an extra.

Q. What road was that on?

A. The Northwestern road.

Q. Now, the date?

A. The date was on September 5th.

Q. What year?

A. This year.

Q. Do you live in the belt which you have described as one hundred and fifty miles wide, and from which the rate to Chicago is 23½ cents?

A. No sir, I live just this side of it.

Q. What is the rate on live stock from your station to Chicago?

A. 21 cents on hogs and 22 cents on cattle.

Q. What is the rate from your station to the nearest Missouri River market?

A. Just about the same, there is very little difference, our three-quarter rate is 15 cents.

Q. Do you have a lower rate per 100 pounds to the Missouri River than you have to Chicago?

A. Just about the same.

1913 Q. About the same

Mr. DAWES: What do you mean by "three-quarter rate"?

A. That is stock cattle rate from Missouri River points to our yards.

Mr. LYNDE: That is the feeder rate.

A. The feeder rate.

Mr. BAXTER:

Q. I understand your rates to Chicago per 100 pounds on your live stock is the same as the rate from your place to the Missouri River on live stock, am I correct about that?

A. It is practically, I have not ascertained the fat cattle rate, I don't believe there is a schedule of fat cattle rate from our part of the country to the Missouri River points; there is no train service anyway.

Q. Now, you assumed a case if I understood you correctly, where you would carry live stock to the Missouri River and you would sell half of it at a Missouri River market, say for instance, Kansas City, and you complained that the purchaser of the half that you sold there could convert the portion that he bought into packing house products, and ship those products back here to Chicago at a lower rate than you could ship the remaining portion of your live stock from the Missouri River market, did I understand you correctly?

A. That is right, yes sir.

1914 Q. Do you know the rate on live stock and on packing house products from your place to Chicago and from your place to Kansas City, or to the Missouri River?

A. I know from the Missouri River to our place, yes.

Q. Well.

A. Not the opposite way, I don't think the rate is published.

Q. Now, if you thought the adjustment of rates was against you, to your injury as you have stated, why would you make any such shipment as that, if you have got a rate on live stock to Chicago as low as your rate to the Missouri River, why would you carry a car load of live stock, and pay the rate on it, first to the Missouri River, and then pay the rate on it from the Missouri River to Chicago when you could ship it from your house to Chicago at the same rate that you shipped it to the Missouri River, why would you make an experiment of that kind?

A. Suppose these cattle were located on the other side of the River?

Q. I am talking about the case you put; let us get through with that, then we will think of the other.

A. I didn't say that those cattle were to be shipped from my country into the Missouri River market, I said, if I took a drove of cattle at the Missouri River market and sold half of them and shipped the other half, was the comparison that I made. We

1915 never ship cattle from our country to the Missouri River market; in the first place, there is no published tariff, and in the next place there is no train service, and in the next place the market would not justify it for our class of cattle.

Q. Well, I understood that you had assumed a case where you were going to carry live stock from your home market.

A. Oh, no, no.

Q. And then ship from there back to Chicago as against the packer.

A. No, no.

Q. Then let us take the case you have got now. Assume that you own some live stock at Kansas City?

A. Yes sir.

Q. And the question with you is whether you will ship it as live stock to Chicago, or will sell it in Kansas City, and let the product be shipped from Kansas City to Chicago. Now, whatever may be the relation of the rates between the packing house products and the live stock, whatever you would lose on the one transaction you would make on the other. You would have the benefit of the Kansas City market if you thought it was to your interest to ship your cattle and live stock, you would move them as live stock, and if you thought it was to your interest to convert them into packing house products, you would do that wouldn't you?

A. How is it with a man just this side of there, that has to use that rate?

1916 Q. You answer my question Mr. Ames, and then I will try to answer yours. I am trying to get at where you are hurt by that question you supposed.

The COURT: Answer the question.

Mr. BAXTER: You have got the choice now.

A. The shipment of the live animal from there to Chicago would be just the loss of the difference in the rate between the dressed meat and the live stock.

Q. If you make it back by converting it into packing house products, where do you get it?

A. Suppose you ship one end, and I ship the other, you are making one hand wash the other.

Q. Now, I am trying to show if one of your hands don't wash the other in the transaction you have put?

A. No.

Q. As far as you are concerned, it seems to me with all due respect, that your interests are balanced, you have got the choice of the markets.

The COURT: You could do either one, it won't do you any harm under these rates. How does it do you any harm?

A. If I own both ends of the deal, I don't suppose it would, but that is not the point I was trying to cover.

The COURT: If you are there with cattle, you can do either one of the other?

A. I can sell, or ship, certainly.

Mr. BAXTER:

1917 Q. Whichever you think to your advantage. I will put another case.

The COURT: Let us take a recess until two o'clock.

Whereupon a recess was taken until two o'clock p. m. of the same day Tuesday, October 3, 1905.

1918 TUESDAY, *October* 3, 1905—2 o'clock p. m.

Court met pursuant to adjournment.
Counsel present same as before.

Whereupon A. L. AMES, resumed the stand for further cross-examination by Mr. Severance, and testified as follows:

Mr. SEVERANCE: Have you finished?
Mr. COWAN: Yes.

Mr. SEVERANCE:

Q. You said in your direct examination that the only claims that stock men were in the habit of asserting were claims for damages arising through the negligence of the railroad companies. That is a fact, isn't it?

A. Delays.

Q. Did you so state?

A. Yes. Delays, that is the one they are in the habit of making, the bulk of the claims.

Q. The bulk of the claims that are made are for delays in getting the stock into Chicago at the time they undertake to deliver it to it, is that right?

A. Yes, sir.

1919 Q. So that if you are thrown over to the next market have to wait till the next day and the market declines, you put in a claim for the damage that you suffer, I mean the stock men generally.

A. That is quite an item and another item is that of shrink. The difference in the price of the cattle is another.

Q. But they all arise out of the failure to get the stock in here at the schedule time?

A. Yes, sir.

Q. The running time from western Iowa, is about 27 hours, ordinarily?

A. From 24 hours to 30, 24 to 28. There is no reason why they should not be inside of the 28-hour limit.

Q. Now you also spoke of the necessity of accompanying stock. You say that stock growers and shippers will accompany their stock here even if they have to pay return passage in many cases?

A. They do.

Q. That is so that they can see the stock delivered and sold on the yards?

A. That is one of the reasons, yes, sir.

Q. And it is your custom when you bring in the bunch of stock, to go right to the yards with the stock and be present when the [illegible] is made so that you can control that situation?

A. Yes, sir.

Q. You regard that as a good reason why you should come on with the stock, don't you?

A. Yes, sir.

Q. The roads that you ship over furnish a caboose fitted
1920 up for drovers so that they can go to sleep?
A. Some of them.
Q. The North-western do, do they not?
A. The train that I spoke of on the North-Western did not have such a caboose.
Q. You spoke of one particular train but you make a great many journeys to Chicago, don't you?
A. That is true, as a rule from Clinton, this side.
Q. For the night ride?
A. Yes, sir.
Q. And when the train is made up at Clinton—what time is that, 7 or 8 o'clock in the evening?
A. No, usually later than that, from half past nine to eleven.
Q. And it gets in here about 7 in the morning?
A. From 4 to 7.
Q. And as a rule, the train being made up there, from half past nine to eleven, that being night time, yourself and the other stock men accompanying stock go to bed, don't you?
A. Yes, sir.
Q. So that you don't look after the stock during the night you see them in the morning and accompany them to the yards and see that the commission men get the best price possible for the stock?
A. There is no particular necessity at any time for a man to examine his stock while they are in motion. At division ends
1921 where they are lying still is where the trouble is. That is, where the trouble is with shipping stock almost invariably.

Examination by Mr. LYNDE:

Q. Mr. Ames, what is your shipping point?
A. My home feeding yard at the present time is Buckingham, Iowa, on the North-Western road, 29 miles north of Belle Plaine.
Q. That is on a branch line, not on the main line?
A. Yes, sir.
Q. Now, in your estimate of the value of the stock yards which you placed at $1,000.00, if I understand you correctly you base that estimate on a four-pen yard, such as you have described here, 96 feet square and so on, is that right?
A. Yes, sir.
Q. You have made some reference to terminal yards. What did you have in mind?
A. I meant the feeding yards, such as you would have at Clinton, Galesburg, and other points where this stock is hauled in in train loads from the west to rest five to eight hours so as to give him a chance to prepare them for market.
Q. Those are very much larger yards, are they not?
A. Those yards will accommodate about 30 cars.
Q. And much more expensive?
A. Certainly in about the same proportion.
1922 Q. As to sand when used for bedding, who furnishes the sand?

A. Why, the shipper does.

Q. Isn't it a fact that the railroad company furnishes the sand?

A. Not in our country, not in Iowa, with the exception of one or two points, competitive points in the western part of the state. I do know of one or two places there where sand is placed on the platform adjacent to the yards where the shipper can shovel it in if he wants to.

Q. Isn't there in each case in each one of these stock yards that you refer to, a sand bin?

A. No, sir, it is the exception that there is one. It is practically impossible for a man to get the railroad company to bed his cars with sand or anything else.

Q. Well, why should the railroad company bed his cars?

A. I don't know any reason why they should only that we don't want them to say that they do if they don't.

Q. But they do claim that they furnish the sand?

A. But they don't.

Q. State where they don't and where they do?

A. Well, they don't over all the line with the exception of one or two competing points in the western part of the state.

Q. Where are they?

A. I believe they did have a platform of that kind at Ida
1923 Grove, and I think they do at Fort Dodge.

Q. Are those the only two?

A. Those are the only two that I am aware of at the present time.

Q. Referring to this train that you spoke of, September 4th, and September 5th, the train coming into Chicago. When did that train arrive at Chicago?

A. About 7:30.

Q. How many cars of stock did you have in that train?

A. I had one car, I was in charge of one car. They were not my own hogs.

Q. Did you pay your fare home?

A. I did, sir, I certainly did.

Q. Is there any reason why you should not?

A. Not at all.

Q. Now that car of stock was picked up at Buckingham, and carried down to Belle Plaine?

A. Yes, sir.

Q. What sort of a train picked it up at Buckingham?

A. The regular stock train, No. 124.

Q. What do you mean by that, when you say a regular stock train?

A. I mean that is the train that handles the stock on the division between Mason City and Belle Plaine.

Q. When does that leave Mason City?

A. About eight o'clock.

Q. That is a stock train, it is not a freight train?

A. Not a way-freight, it is called a time freight.
1924 Q. It starts out in the morning from Mason City and goes down to Belle Plaine?

A. Yes, sir.

Q. Picking up cars of stock at different stations, and moving them along?

A. Yes, sir, and other freight with it.

Q. What is the chief portion of its freight?

A. There are some days that it will be—There will be one car of stock on some days and it will be all stock on other days.

Q. Depending wholly upon the movement of stock at that time?

A. Yes, but it is always a full train of cars.

Q. Before it gets to Belle Plaine. It is not when it starts out, is it?

A. It generally is pretty well filled when it starts out at Mason City.

Q. I thought you said that it generally had two or four or six cars out of Mason City, that it started out light?

A. Of stock.

Q. You said if I understood you correctly that the train started out light at Mason City.

A. It depends upon the run of stock ahead.

Q. Well, also on the run of other freight?

A. Well, that train is supposed to pick up all of the stock. If we have, for instance, thirteen cars to pick up at Buckingham, and fourteen cars at Traer, and two or three cars somewhere else, it will
1925 start out of Mason City without very much of anything on except stock to provide for the freight that is to be accumulated between Mason City and Belle Plaine.

Q. They run it then with reference to the stock that is to be picked up of which they have knowledge at these different stations ahead?

A. Yes, sir.

Q. Do they ever run extra stock trains up there on that branch?

A. Yes, sir.

Q. When the movement is very heavy they will run up extras?

A. Yes, at this time of the year there is two or three or four extra stock trains comes down twice a week. A large per cent. of it comes from Pierre, coming down through our country, coming from that northwestern country.

Q. When is the movement heaviest during the week?

A. For the Monday market and for the Wednesday market.

Q. On those days, that is on Wednesday or on Tuesday, which ever may be the day, when that movement commences, then the stock is delivered in large quantities, isn't it?

A. There is not so much difference through our part of the country, but then the accumulation of stock that comes over the road is greater on those days.

Q. Why isn't there as much difference in your part of the country?

A. We are closer to the market, being 24 hours away, and our stock is handled more uniformly. It is a steadier shipment.
1926 The markets that—the cattle that are away on the range over the river, the cars have to be unloaded here and distributed back to those points and it takes a week to gather the animals, round them up and get them in shape and get them into the cars

and that is usually done with a force of men that handle the whole country at once.

Q. Why is it that this movement concentrates on Mondays and Wednesdays here at the stock yards particularly, what is the occasion for that?

A. I just explained one reason.

Q. What other reasons are there?

A. I don't know as there is any particular reason for it. It is a habit brought about by the idea that they will get a better price on Monday than they will on some other day.

Q. Well, that is the reason, isn't it, that they expect a better market on Monday and Wednesdays than other days of the week?

A. That was the reason, I presume that brought about the custom.

Q. And that has led to the concentration of business for those particular days for each week during the cattle moving season?

A. That is one reason, yes sir.

Q. Now, when your train got to Belle Plaine, was your car of stock taken from that train?

A. The whole train was run in on a side track.

Q. And then they were made up into another train there?

A. They put that onto No. 132 that came from the west
1927 when she came in.

Q. They did not make up a special train at Belle Plaine at that time?

A. No sir.

Q. They do very frequently, don't they?

A. No, not so frequently. They usually combine the stock that comes off from the Tama City branch and the stock that comes off from the Mason City branch, and the stock that comes off from the Southern branch known as the Pumpkin Vine.

Q. Doesn't it all depend on how much stock comes off of those several branches to be consolidated at Belle Plaine as to what they do in handling it?

A. Not so much because there is always plenty of stock on that line, there is always trains coming there.

Q. Stock is always being handled?

A. Stock is always being handled there. It is more the lack of a proper adjustment after getting the stock in at this point at the proper time.

Q. I appreciate that, but this stock is moved from all directions that is concentrated at this one point?

A. Sure, trying to get here at Chicago between four hours of time in the morning.

Q. It is not—Does not the delivery here in Chicago commence as early as midnight on these heavy movement days?

A. Yes, but not very many cars.
1928 Q. I know it, but it commences.

A. It commences, sure.

Q. And runs from midnight on until morning?

A. There will be——

Q. That is the fact, isn't it?

A. It is a fact that one or two cars will come in possibly at midnight.

Q. I believe that the statement that has been offered in evidence by the complainant here as to deliveries at the stock yards at the chutes, and the hours of delivery and the number of cars, would probably be better proof of that wouldn't it, than your testimony?

A. I did not hear that testimony and of course I don't know.

Q. You don't know really of your own knowledge as to just how many cars are delivered from midnight to four o'clock or from 4 to 7?

A. Not the exact number but I know from absolute knowledge, from being there that there is not very many. I have been in with one or two cars as early as one o'clock.

Q. Generally you come in later?

A. Yes sir.

Q. But there are a large number of trains coming in over the Burlington or the North-Western or some other road on a particular morning, some Monday morning and they are handled within the time from 12 o'clock midnight on till sometime in the morn-

1929 ing, aren't they?

A. Your delivery is too early to make very much of a delivery. There is not many cars at that time.

Q. I am not—It is not material whether it is 12 o'clock or 1 o'clock to me, but they begin at an early hour in the morning and keep coming along at intervals until morning, the morning hours, isn't that a fact?

A. No, the fact is this——

Q. Just answer that, isn't that a fact?

A. That they do commence?

Q. Yes, begin early and the deliveries run along at intervals from that early hour down to the time until they get through?

A. You may say they commence, one car would allow an answer of that kind to that question.

Q. I don't care whether it is one or fifty.

A. Sure, they possibly do.

Q. Have you ever known one car alone to be delivered at the stock yards?

A. Yes sir.

Q. Is it a common occurrence?

A. No sir.

Q. Isn't it a fact that they generally move down to the stock yards as full trains of stock as they can get?

A. Well, I suppose it is.

Q. You have observed it, haven't you?

A. They generally move down a full train as they come in.

1930 Q. Well, don't they from time to time hold one train if they have but a few cars of stock, until they get other cars?

A. They do on the Rock Island.

Q. Hold it until some other train comes in and then make up as heavy a train as they can.

A. If it was on the Rock Island, they do. On the C. B. & Q., they have not for a number of years on the North-Western.

Q. What do they do on the North-Western with cars just as soon as they come in, just as soon as they reach their terminal?

A. Then they throw out the dead freight at the "Y" and take the stock and get it together and push it right down to the yards.

Q. And get it there just as fast as they can?

A. Exactly.

Q. When you ship your stock from Buckingham you have no means of knowing as to whether you will arrive in Chicago at 4 o'clock or 5 o'clock or 6 o'clock, do you?

A. No more than knowing if we were starting on a passenger train.

Q. Well, a passenger train runs on a schedule. A stock train don't, does it?

A. Well, perhaps not just on the same schedule, no.

Q. Isn't it a fact that the Rock Island, the Burlington
1931 the St. Paul and North-Western Road will bring in in times of heavy movement into Chicago Monday morning say 25 trains of stock?

A. They do.

Q. And those starting from various points along the lines of road are consolidated at such places as Clinton and Galesburg, and Savanna, and then started out between the Mississippi river points that I have named to Chicago, as fast as they can be run?

A. Yes sir.

Q. Whether your stock will get on one or the other of those trains coming in, depends wholly on what the pressure of business is ahead of you?

A. Yes sir.

Q. The earlier your stock gets to Clinton or Savanna, the quicker it will be handled and get to Chicago?

A. Of course.

Q. And all that movement involves the receipt of stock from all of the different branches in Iowa of all of those different roads, the consolidation at Division points, the movement then on to the Mississippi river point which is the final stopping place before they start out for their run to Chicago?

A. Yes sir.

Q. That is about the way it is handled?

A. Yes sir.

Q. Now you have said, Mr. Ames, that the same crew on the North-Western takes the stock train down to the yards. Do
1932 you refer in that particular to the train crew or to the engine crew or do you know anything about the engine crew?

A. I refer to both the engine crew and the conductor and brakemen, the train crew.

Q. Now, do you know anything about the engine in that particular as to whether it is the same engine that takes your train down to the stock yards or not, of your own knowledge?

A. Yes, I do, I know it is the same engine. I will tell you one

reason why. I don't say but what there possibly could be something that would change it once in a while, but the train stops to be weighed. The engine pulls the train over the scales. We always get out there almost invariably at the scales and see the stock weighed and commence at the head end of the train. The same numbered engine that weighs the cattle, weighs the train, will pull the train into the chutes.

Q. Where is that weighing done on the North-Western?

A. At Western avenue, I think it is.

Q. Now, do you know whether or not that engine is changed after that or not, after the cars are weighed there at Western avenue?

A. It is not changed.

Q. I say, do you know?

A. Yes, I know.

Q. Do you know whether the same engineer and fireman go down after that weighing, of your own knowledge?

A. I know that they—If they make any change they have
1933 to make it on the run because the train is pulled right out and goes right down many times without any stop.

Q. The reason I ask you these questions is because Mr. Gardner has testified here positively that the engine crews are always relieved that bring the stock trains into Chicago?

A. I have not testified to the crew because I had not seen them.

Q. Well, I am talking about the crew.

A. I am talking about the engine and the conductor and the brakemen. Those men I know.

Q. I am talking about the engineer and fireman on the engine. Now, do you know anything about that?

A. I would not testify to the engineer and fireman. I testified to the engine and the conductor and the brakemen and the caboose.

Q. Well, it may be the same engine. I don't know whether it is or not, but the engineer and the fireman, he says, are changed always, relieved.

A. I would not dispute Mr. Gardner's word. I am not acquainted with the engineers, I would not know whether they changed them or not.

Mr. COWAN:

Q. In that connection I would like to call to your attention that when we tried the Terminal Case it was then shown by some-
1934 body that—Somebody connected with your road that the same crew took the train on but they paid them time and a half from Western avenue down to the yards and back.

Mr. LYNDE: That may be true of the train crew and it is also true of the engineer and firemen that we do pay them time and a half for making that movement but I do not understand that the same engineer and firemen move the train down.

Mr. SEVERANCE: It would not make any difference in the expense.

Mr. COWAN: I thought Mr. Gardner was mistaken when he said that about the engine crew.

The WITNESS: I am going to ascertain, I will promise you that. It will be too late for this case but I will know.

Mr. LYNDE:

Q. Now there is more or less shrinkage on cattle brought in here, isn't there?

A. Certainly.

Q. Do you pay on the weight from the point of shipment or at the yard?

A. I pay on the railroad weights.

Q. Where is that weight taken?

A. At Western avenue.

Q. Taken at this end of the run?

A. Yes.

Q. You buy on the weight after the stock has arrived here in Chicago?

A. Yes.

1935 Q. Is the live stock business, the cattle business increasing in your part of the country?

A. You mean——

Q. The number of cattle that are raised?

A. No, sir, it is not.

Q. Is it decreasing?

A. I think there will be fewer cattle shipped from our country this year than last year and fewer than five years ago.

Q. Such cattle as are shipped all move here to Chicago, don't they?

A. Practically.

Q. You spoke of buying cattle in Omaha and having them shipped onto Buckingham or Belle Plaine on meat trains. Now those cattle that you bought in Omaha were feeders, were they not?

A. Yes.

Q. You brought them on for the purpose of feeding them on your farm and ultimately shipping them to market?

A. Yes.

Q. So in moving them from Omaha down to Belle Plaine, they were not moving for the purpose of reaching any market, were they?

A. No, sir.

Q. No particular market in view at that time? What other train could you—Would they have moved on if they did not move on that meat train?

A. Probably on No. 132 that leaves there about 4 o'clock in the afternoon.

1936 Q. What is that, a way-freight train?

A. No, I think it is a train that they schedule as a time freight.

Mr. LYNDE: I think that is all.

Examination by Mr. DAWES:

Q. You say you have been feeding and shipping cattle from your vicinity for a number of years?
A. Yes.
Q. On various railroads?
A. Yes.
Q. About how many cattle a year do you ship?
A. That depends on the way I feel about the market for cattle, all the way from 200 to a thousand.
Q. How many have you shipped?
A. All the way from 200 to 1,000.
Q. How many have you shipped this year?
A. This year I will ship probably not more than 10 or 12 cars.
Q. From January to——
A. From January to January. I can hardly tell yet as the season is not far enough advanced.
Q. How many did you ship last year?
A. Well, about twice as many.
Q. How many did you feed last year?
A. I only ship my own feeding, as a rule. I buy very few.
1937 Q. Do you carry any over or did you carry any over from last year to this year?
A. Yes.
Q. How many did you ship the year before that?
A. 1903?
Q. Yes?
A. About a thousand cattle.
Q. That would be 50 carloads in round numbers?
A. Yes, something like that.
Q. And 20 last year?
A. Yes.
Q. And 12 this year?
A. Yes.
Q. How many have you got on hand out there now?
A. I have not over 7 or 8 cars.
Q. That is from where, all over the state?
A. Oh, no, I mean in my own yard.
Q. I mean of your shipments during the year?
A. You mean other shippers?
Q. I mean you?
A. I only ship my own cattle and that is all I own at the present time.
Q. I understood that you shipped from other places.
A. Those were cattle that I owned on a ranch in Kansas at that time. I do not have that property at the present time and there is no cattle there.
Q. When did you cease owning that?
A. I think the last shipment I made off of there was in 1903.

Q. From your own home place, how many cars did you
1938 ship in 1903?

A. Well, there was an average of two thirds of the cattle I shipped came from there.

Q. Two thirds of the 20 cars?

A. Two thirds of the 50 cars.

Q. 1903, about 30 cars?

A. I could not tell without looking at the books.

Q. 1904 you had ceased to ship from Kansas entirely?

A. Yes.

Q. And all your cattle were shipped from——

A. Buckingham.

Q. You shipped about 20 cars?

A. That is of the fat cattle.

Q. Of the cattle that moved on these rates, you are talking about?

A. In 1903, I bought my feeders in the northwest part of Nebraska and I had to use the fat cattle rate to the Omaha market and the feeder rate from there to my feed yard and the fat cattle rate from my feed yard to Chicago.

Q. That didn't change the number you shipped any, did it?

A. No, not at all, only I could have shipped more if I could have gotten a better rate.

Q. Do you undertake to say that the reason you did not ship and did not acquire and feed more cattle in the last two years was because of this rate?

A. I mean this——

1939 Q. Well, answer that question, please?

A. If I can explain it I will, yes.

Q. Answer it first, and then explain it afterwards.

A. That is the reason I wanted to wait, yes.

The COURT: You answer the question and then you can explain it.

Mr. DAWES:

Q. Hasn't this same rate been in effect for the last four or five years?

A. Yes.

Q. Ten years. Now, make your explanation.

A. An element that enters into the rate is the fact that the Nebraska feeder receives a feed and transit rate on the cattle that he places on the ranges and puts into his feed yard and ships out to Chicago and also the corn rate that the Iowa feeder has to pay, he has to buy his corn in the last few years in place of raising it ourselves, we have had to go to Nebraska to buy it, and we have to pay the Mississippi rate on our corn, and we have to pay the double fat cattle rate on our cattle in direct competition with the Nebraska man that gets a feed and transit rate and gets his corn at 30 cents a bushel less.

Q. These very rates from Nebraska have been in for ten years, have they not?

A. That is true, but the condition of the country did not then make any difference with us.

1940 Q. So you are complaining now of the corn rate?

A. The corn rate and the feed and transit rate and the whole volume of business.

Q. In other words, it is not the railroad rate on cattle that you are complaining of, but it is the rate on corn.

A. No, it is not, it is the rate on cattle.

Mr. SEVERANCE:

Q. That Nebraska rate through to Chicago and your rate in dollars and cents have been just the same for ten years?

A. I think so.

Q. There have been no changes in them but the last two years you have had a failure of the corn crop in Iowa?

A. Yes.

Q. And it has been expensive to get corn to feed where you had formerly raised your own corn, isn't that true?

A. Yes.

Q. And that has made it unfortunate to you to feed cattle?

A. That is part of the difficulty.

The COURT:

Q. Does the cutting down of the rate on the packing house product and dressed meat affect you in any way?

A. I think it did, yes, sir.

Q. Well, how?

A. Because the man that feeds the animals—it gives the man that feeds the animals in the western market the advantage of the

1941 difference that he pays and the rate we pay.

Q. It fixes him so that he can sell cheaper than you can and still make a profit?

A. Yes, sir, that is the idea exactly.

Redirect examination by Mr. COWAN:

Q. Stock shipped from Pierce is range cattle gathered and driven in?

A. Entirely.

Q. That live stock arriving from the ranges might arrive at Chicago at any old time?

A. Yes, sir.

Q. When you were speaking of the time at which live stock arrived at Chicago, you have reference to the Iowa shipments?

A. Exactly.

Mr. DAWES: Wouldn't it be proper for him to ask him what the shipments he referred to were rather than to tell him in advance what he ought to refer to. It makes it very easy to testify under those circumstances.

The COURT: You are going to have plenty of corn there this year, aren't you?

A. I hope so, it looks like it.

Q. Have you gone into the dairy business out there?

A. Over the state, I don't think the dairy business is as great as it was. In some localities it is increasing and other places they are doing something else.

1942 The COURT:

Q. The dairy business don't care much about the rate?

A. We don't want to do so much dairying as we want to feed. We want to keep the whole value of our land increasing, we want the land to increase in value and fertility rather than decrease.

Q. The milk business would do that better than any, wouldn't it?

A. No, I don't think so. I don't like to milk.

Mr. COWAN:

Q. What becomes of the car when you ship the feeders from Omaha for example to Buckingham and unload them?

A. They are loaded with fat cattle and shipped on to Chicago almost invariably.

Q. How much do you pay per hundred pounds from Omaha to Buckingham on the feeder cattle rate?

Mr. SEVERANCE: That is objected to. That is not redirect, is it, your Honor?

The COURT: Haven't you got about all this man knows?

Mr. COWAN: I did not ask him that question. If he has answered it, I don't want to ask him.

A. The feeder rate is ¾ of the fat cattle rate.

Q. In cents per hundred pounds?

A. In cents per hundred pounds, yes, sir.

Q. What do you pay in cents per hundred pounds to Buckingham?

1943 A. From Missouri River points we pay 15 cents and from Chicago 18 or 18 and ½. ¾ of 22 cents.

Mr. LYNDE:

Q. When you say fat cattle rate, you mean the local published rate?

A. Yes, sir, the local published rate.

Mr. COWAN:

Q. When you buy the feeders to feed, do you expect to ship the fat cattle on to Chicago?

Mr. SEVERANCE: I object to that. That is asking for a condition of mind.

The COURT: Objection sustained. I think you have asked him that question. I am doing that on general principles.

Mr. COWAN: The court does not exclude the fact that he buys them to ship them on.

The COURT: Call the next witness. I believe you have got all you can out of him.

M. P. BUEL, having been duly sworn as a witness on behalf of the complainant in rebuttal, resumed the stand for cross examination by Mr. Baxter, and testified as follows:

Q. I have only one other question to ask. The Interstate Commerce Commission states in its report and opinion in what is known as the "Terminal Charge Case," that while it is theoretically possible for any one to sell cattle at the Union Stock Yards, yet practically it is impossible for anybody to sell cattle there except the mem-
1944 bers of the Chicago Live Stock Exchange. Do you understand that to be true?

A. I do not.

Q. That is one error that the Commission has made then?

A. Any one can sell live stock. Any shipper can find buyers who will buy his stock in the union stock yards?

Cross-examination by Mr. SEVERANCE:

Q. Are there any buyers there other than members of the Live Stock Exchange?

A. Yes, sir.

Q. Are not they represented by members of the Live Stock Exchange who make the purchase?

A. No, sir, not necessarily.

Q. Are they not usually?

A. Largely they would be, but there are men, many men who are buyers of live stock that are not members of the Chicago Live Stock Exchange.

Q. Practically, is there any stock sold there by any one except members of the Live Stock Exchange?

A. A very small amount of the business is done that way.

Q. Well, what per cent.?

A. I could not give you the per cent.

Q. There is not one per cent., is there?

A. Well, I should think probably that much, and probably not more.

Q. The owner of the cattle is usually present when you make the sales?

A. Sometimes, and other times he is not. It just depends——

1945 Q. I am asking whether he is usually there?

A. No sir, I don't think he is.

Q. Is he half the time?

A. I should think so. It is the custom of the shippers to send in consignments that they do not come with or they don't come here at the time that the stock arrives.

Q. It is the usual custom, is it?

A. The large shippers are seldom ever here with their shipment. Take the shipments that come from the far west, to illustrate that idea, they are seldon ever here when their stock arrives here.

Q. We are talking about shipments from Iowa and that region. How is it in that case?

A. They are very apt to come themselves or send a man, who is sent along for the purpose of seeing that the stock is properly cared for while en route, and after it reaches the yards; but the actual owner may not accompany that shipment.

Q. Well, the last witness on the stand, Mr. Ames said that he always came, and that it was usual for stock men to come even if they had to pay their fare back. You think he is mistaken about that, do you?

Mr. COWAN: I don't think he said it was usual.

Mr. SEVERANCE: He said that it was usual and that he himself always did that.

1946 Q. Do you think Mr. Ames is mistaken about that?

A. I would not undertake to express an opinion about what Mr. Ames does or does not do.

Q. You don't understand the fact as he has stated it. It is not your experience in general. I don't mean to dispute that he comes himself, but you think that that is unusual?

A. I think he is not a fair illustration of the average shipper that sends stock to the market.

Q. Now, this 5000 head of cattle that you spoke of, five per cent. of which came to Chicago and the balance went into St. Louis and Kansas City?

A. Yes sir.

Q. Where did that stock come from?

A. Judge Baxter asked me for that information, and I have got it. Elgin, Kansas, between June 20th, and October 1st this year, we have shipped 800 cattle. Those cattle were loaded on the tracks—the tracks there where the cattle were loaded belong to the Santa Fe Road. Many of those cattle went to St. Louis and may have went—I don't know whether they went over the St. Louis & San Francisco or the Missouri Pacific.

From Bliss, Oklahoma, between June the 15th and October the 1st, 1905? we have shipped 2,750 head of cattle. Those cattle were all loaded on the Santa Fe Road. There is but one railroad enters that little place.

1947 From Oklahoma City we shipped between January the 10th and April 1st, 1905, 1,400 cattle. Those cattle were principally shipped over the St. Louis & San Francisco Road, direct to St. Louis. One train of these cattle was shipped on the Rock Island Road from there. There are several railroads at that point. From Euvalve, Texas, between April 15th to May the 10th we shipped 445 head of cattle. Those cattle were all loaded on the Southern Pacific. There is but one railroad at Euvalve, making a total of 5,395 head. That number may not be exactly right.

Q. All those cattle *men* then were shipped from points beyond Kansas City?

A. Certainly.

Q. And you had the opportunity then to ship those cattle through to Chicago instead of dropping them off at Kansas City for a rate of 16 or 17 cents above the Kansas City rate, didn't you?

A. Yes.

Q. And thus reach what you call the best market in the world. That is true, isn't it?

A. That is true.

Q. While, if the man purchased those cattle from you at Kansas City and slaughtered them, he would have to pay a twenty cent rate on the product coming here to Chicago?

A. If that is the rate, yes.

Q. Well, that is the rate, you know that, don't you?

A. No sir, I don't think I know exactly what the rate is.

Q. Well, we will assume that. That is what the Inter-
1948 state Commerce Commission claims, and that is what you allege in the complaint which you filed before the Interstate Commerce Commission. I believe you said you filed it.

Mr. COWAN: 18 and a half cents proportional?

Mr SEVERANCE:

Q. We are talking about shipments to Chicago, and that is the best market in the world. That rate is twenty cents to Kansas City, and you could bring your cattle over for sixteen cents?

A. Yes, on that through billing.

Q. All of this stock that you are talking about here originated beyond Kansas City?

A. Yes sir.

Q. And in spite of the fact that you could have brought that stock through to Chicago for four cents a hundred less than the packer in Kansas City could have shipped the product to Chicago, you found a better market and made more money for yourself by selling it in Kansas City, or sending it to St. Louis, didn't you?

A. Yes, that is so, but I want to explain that. Part of these cattle did come on to Chicago.

Q. Yes, you said five per cent., I think, of it.

Mr. DAWES: Will you tell me what your commission rate is at the Chicago stock yards?

A. Fifty cents a head for selling cattle up to 24 cattle in a car.

1949 Q. That is twelve dollars a car?

A. Yes sir.

Q. No matter how many cattle—it is fifty cents a head for less than 24?

A. Yes sir.

Q. Is ten dollars the minimum?

A. No sir, there is no minimum to it. We get many cars of cattle that have not more than 15 or 16 head to the car. Then we get cars with as many as 30.

Q. In your Association Articles, under them no member is permitted to cut that rate, is he?

A. No sir.

Q So it is safe to assume that all cattle sold by the commission men in the Chicago Live Stock Market at the stock yards, bear a burden of fifty cents a head?

A. As I have testified.

Q. What services do you render for that?

A. As a rule the commission men take these cattle from the chutes and move them into a certain location where each firm congregates its cattle and we order the feed for them.

Q. You charge for it, don't you?

A. No sir, we don't charge for it, the yard company charges for it. We see that they are properly watered. The commission man furnishes the men to see that these cattle are watered.

Q. Who furnishes the water?

A. The yard company. Then we take these *water* after they are sold, to the scales and put them on the scales. They are weighed by the yard company and the yard company then takes them to
1950 the yards for the purchasers.

Q. All you do then is to tell the employés of the yard company when it is time to drive them into your pen?

A. No, I did not testify that way.

Q. How many men do you employ in and about the yard yourself not buyers or salesmen?

A. Who, the commission men?

Q. You, yourself?

A. My firm employs seventeen men.

Q. Are those clerks or outside men?

A. Part of them are clerks.

Q. I mean men who drive the cattle from the stock yards pens, into your pens?

A. I think I have seven at this time.

Q. They all assist in driving the cattle out to the stage, don't they?

A. Certainly.

Q. And then tell the stock yards men what time they should be watered?

A. No sir, we water them.

Q. By turning the faucet in the troughs, in the pens?

A. Yes.

Q. It don't take seven men to do that, does it?

A. Depends on how many cattle you have got.

Q. How many pens have you got there?

A. I think my firm has got 28 pens.

Q. The water is simply turned on at the faucet and that
1951 is water which the stock yards company furnishes?

A. I wish it were so.

Q. What is it, if that is not the way of it?

A. If I had got——

Q. What do you do with reference to watering the cattle?

A. I want to explain that if you will give me my way, I will make it clear.

Q. Please answer my question.

A. What do I do? As a rule, we take them out of that pen and let the cattle move in a few at a time, and let them drink, let those few drink before we put more in. The trough is short and don't permit of more than six or eight cattle going up to it at a time, and in order to have the cattle get the greatest amount of water, get

every pound of water in them that we can, the general custom among commission men is to put them out in an alley, and then let them in a few at a time, and then let them drink before we let the rest in.

Q. How many cattle do you have a day there in your pens, on an average?

A. Well, sir, I don't *that* that I could answer that, because I never figured it that way.

Q. Well, estimate your daily average.

A. Some days I will have a thousand or fifteen hundred and other days I won't have a hundred.

Q. What is your general average, how many do you handle
1952 a year, for instance?

A. We handle 15,000 or 16,000, my own concern.

Q. How much do you pay these men a day, these seven men?

A. I don't employ them by the day.

Q. How do you employ them?

A. By the month or by the year?

Q. How much a day does your outside man get, just divide it up, and see how much your outside men get a day?

A. We pay our men that fill that kind of a position from $50 to $100 a month.

Q. How many of those outside men do you pay $100 a month?

A. Well, I think I pay four of them $100 a month.

Q. Are you quite sure?

A. I am.

Q. Four of them, and the other three you pay $50?

A. No, sir, I pay two $75 and one man I am paying $50.

Q. So that there is about $75 the average a month?

A. No, sir, it is more than that.

Q. Well, call it $80. It is not over that. Is there any other service that you render in connection with these cattle, except keeping the books?

A. With those cattle?

Q. Yes.

A. No, sir. We sell them, of course, I have explained that to you. We employ salesmen at a high price.

Q. Suppose you should cut down your commission rate by
1953 agreement, a trifle, would not that accomplish the purpose, which you are trying to gain here of inducing shipments of cattle to Chicago?

A. No, sir, I don't think it would. I don't think it is possible to cut down these expenses, and give the service that the customers expect.

Q. You don't think it is profitable, these services that you render at fifty cents a head?

A. I don't think it is profitable?

Q. No, you don't think it is profitable the services you render at fifty cents a head?

A. No, sir, it is not profitable.

Q. Why did you go into it at Fort Worth and Kansas City and other places, if it was not profitable?

A. We went into it at times when we were not expected to give as good service as we are now giving to customers.

Q. Why do you continue at it?

A. Because I have spent my life at the business, and I don't think I could earn my living at anything else.

Q. I understood you to say that you did not make a living out of this?

A. I said it was not profitable.

Q. What did you mean by that?

A. I say the net earnings of a commission firm are very small.

Q. What percentage of the net earnings does a commission man make?

A. I have an idea if you should take the commission men——

1954 Q. What do you mean about that? You can tell, what is your net results?

A. We made last year about 22 per cent. on the volume of business we handled.

Mr. RANSOM:

Q. You said, Mr. Buel, that there was about fifty of these live stock exchange men who owned cattle. Can you tell us where those cattle are located?

A. Oh, no, sir. I can tell you where some of them would be.

Q. Well, where?

A. Some of them are in Iowa.

Q. Whereabouts in Iowa?

A. Well, there is a man by the name of Brown that I think of now that has some cattle, but I could not give you the post office address.

Q. How is that?

A. There is a man named Brown who has a farm in Iowa somewhere?

Q. Do you know just where it is?

A. I think I heard him say.

Q. Do you know whether it is in this 23½ cent belt?

A. I took it for granted, yes.

Q. Well, you took it for granted. Do you know whether it is?

A. I have not investigated it.

Q. Who else is there?

A. O. J. Shannon, and the Shannon estate.

Q. How many cattle does Brown own, do you know?

A. I don't remember.

Q. Do you know how many acres of land he has there?

1955 A. I do not.

Q. Do you know whether he owns any land there?

A. I have heard him say he did.

Q. Where does Shannon—where are his cattle?

A. I don't know the post office.

Q. Can you tell us the county?

A. No, sir.

Q. Can't you tell us whether it is in this 23 cent belt or not?
A. I cannot.
Q. Who else, there is Shannon and Brown.
A. I had a list of the men that I talked with. There is a man named Van Norman that I think of now.
Q. Where is he located?
A. He owns a farm right up here near Elgin, Illinois.
Q. That is not in the 23½ belt?
A. I don't know.
Q. Don't you know where the 23½ cent belt is?
A. No, sir.
Q. Do you know whether it is east of the Missouri River or west?
A. I do know that it is west. I know that it is west of the river, yes, sir.
Q. Now, then, will you tell us, Mr. Buel, as near as you can where the rest of these 46 or 47 men doing business as live stock commission men have cattle that they market at the market here?
A. No, sir, I am not prepared to answer that question, as to where they are, but I want to answer by re-iterating what I said, that
1956 these gentlemen have told me that they owned farms and feed cattle, and ship them into the market.
Q. What market?
A. To this market at Chicago.
Q. You don't know anything definite about it?
A. I have seen them have cattle in the yards and they have said "These are my individual cattle."
Q. Did they tell you which they were making the most money out of, raising live stock and shipping them in here or as commission men?
A. They never did.
Q. You did not canvass that with them at all?
A. No, I never heard them say that.

Mr. COWAN:

Q. Commissions are the same on all markets, are they not?
A. Yes, sir.

Mr. RANSOM:

Q. Do you get the same commissions in South Omaha that you get here?
A. Yes.
Q. What is the commission for the sale of hogs here in Chicago?
A. Six dollars a car.
Q. Is it the same in South Omaha?
A. Yes.
Q. And the same in St. Joseph?
A. Yes, sir.
Q. And Kansas City?
A. Yes, sir.
Q. And Sioux City—well you are not located at Sioux City.
A. No, sir.

Q. You say there is no minimum charge. Don't you charge ten dollars a car for all cattle?

A. No, sir.

1957 Q. But you do charge six dollars for all hogs?

A. Yes, sir, for a carload.

Q. That is a flat charge?

A. Yes.

Redirect examination by Mr. COWAN:

Q. When you were being interrogated with reference to the shipment of cattle that you brought on here from Oklahoma to Kansas City, the questions that you were asked about the cattle that you shipped, you were asked if you shipped them on the balance of the rate, sixteen or seventeen cents, and there was a suggestion in the question that notwithstanding you could do that, and the packer could ship the product for twenty cents, if you chose to sell them at Kansas City. In that connection you said that you wanted to explain something. He cut you off with another question. Whatever explanation you want to make in regard to that, I would like to have you make it.

A. I want to explain that in forwarding these cattle from that market after they has been shown and a price put on them, that we find on their arrival in Chicago that many buyers know just what has been offered for those cattle there, resulting in destroying the competition which enables the salesman to get for those cat-

1958 tle as much as he would have on the judgment of the salesman if he did not stop at those other markets?

The COURT: That is not the fault of the railroad, is it?

A. No, I don't think it is.

Q. Who is that the fault of?

A. How is that?

Q. Who do you blame for that?

A. I could not answer that, Judge, other than by saying I don't know. I know it is a condition that seems to exist.

Mr. COWAN: Can a packer ship the product in the form of dressed meat, I mean, or the carcas- cheaper than you can ship the animal, notwithstanding you can get it shipped for sixteen or seventeen cents?

A. He certainly can, because he does not pay on only a little over about a half as much weight as I would have to pay on it.

Q. Do you think that that gives him an undue advantage or not?

Mr. SEVERANCE: I object to that as incompetent, and asking for a conclusion, and as not re-direct.

The COURT: Yes, I think that is objectionable. Do you think that his opinion would have anything back of it?

Mr. COWAN: How is that, your Honor?

The COURT: Do you think he has knowledge enough of the whole situation to make his opinion amount to anything?

Mr. COWAN: I think so. It is as good as any of these

1959 railroad men. He has been doing business on those yards for 25 years. He knows that there is an advantage that the

packer has got, and the question of whether that is an undue or unnatural advantage is just as much a matter of his knowledge as it is of any railroad man as to whether these rates are reasonable or not.

Mr. SEVERANCE: We have not asked any such question as that.

Mr. COWAN: Now, all these gentlemen representing the railroads have gone right ahead and given their judgment.

The COURT: Well, let's see what the question is.

Mr. COWAN: I am asking him whether that gives him an undue advantage.

Q. Under all the circumstances as you have ascertained them from a life time of experience, is that advantage in the rate, reasonable or unreasonable?

The COURT: That is not it, whether the rate is reasonable or unreasonable in comparison with the other rate?

Mr. COWAN:

Q. Is the rate allowed to the packer reasonable or unreasonable compared with the rate allowed to the shipper of the live animal?

Mr. SEVERANCE: I object to that as incompetent, and as no foundation is said for it, and it is not shown that this gentleman knows anything about the cost of operating a railroad at all.

1960 The COURT: Let him answer.

A. It is not reasonable.

Q. Why?

A. Because it gives them an advantage in carrying a little more than half the rate that I would have to pay for if I shipped live cattle. Hence their net rate is much in favor of the packer because he can transport that product to Chicago for less than the man can ship the live stock.

Mr. SEVERANCE:

Q. For the same reason then you would say that it would be unreasonable if the rates were each twenty cents because the packer would still have that advantage of only transporting only a little over half the weight in product?

A. Well, I think the rate on live stock should be less than the rate on the packing house product.

Q. So you disagree entirely with the Interstate Commerce Commission in that regard, you think the rate on packing house products should be 20 cents or 28 cents?

A. It once was?

Q. How is that?

A. It once was 28 cents.

Q. What will a steer dress? You say 55 per cent. What will a steer dress?

A. I reiterate for example the illustration that I made yesterday. Take a thousand pound steer in good condition, and he will

1961 dress 55 per cent., and that would be 550 pounds of beef.

Q. What else do you get from the steer besides that?

A. They get the hide and the offal.
Q. How much does the hide weigh?
A. That hide would weigh 60 or 70 pounds.
Q. That would make 620 pounds?
A. Yes sir.
Q. What else do they get?
A. They get the tallow.
Q. How much will that weigh?
A. I don't know, I suppose it will weigh 30 or 40 pounds.
Q. Well, that will make 660 pounds. What else will they get besides the tallow?
A. Well, they make a fertilizer.
Q. How much does that weigh?
A. I don't know.
Q. Can you give it to us, within a limit? You are an expert here.
A. I didn't testify as an expert.
Q. Not as a manure expert. Can you tell us of any other product of the cattle in addition to this 660 pounds and the fertilizer?
A. Oh, yes, there is the tongue, that is valuable.
Q. That is valuable. How much does that weigh?
A. I don't know.
Q. Then were you not misleading the court a little when you say that he has to pay on only 55 per cent. of the weight. Don't he, as a matter of fact, have to pay on about 75 per cent.?
A. I don't know what he pays on. We were——
1962 Q. Assuming that he ships it on to this best market in the world——
The COURT: He is talking about the average. He is talking about the fresh meat product. Fresh meat is what he is testifying about.
Mr. SEVERANCE: Yes, but they have to sell those other things in market.
A. I did not testify, Mr. Severance, that Chicago was the best market for hides or for any other product of the animal that was slaughtered in other markets. I testified on live stock only.
Q. Chicago is a better market for hides than Kansas City?
A. I don't know, I never looked into it.
Q. Yes, you are an expert on that part of the business?
A. I don't claim to be.
Q. You don't know whether they pickle tongues and ship them east or not?
A. I have been told they did.
Q. Don't practically the entire product of the animal, whatever it may be of every character, move from the Missouri River points being on the same rate as the dressed beef, namely a packing house product rate?
A. I don't know about that.
Q. You don't know to the contrary, do you?
A. I don't, I cannot testify one way or the other.
Q. Isn't it a fact that all the packages in which these various products are put up are either shipped from here out to the
1963 Missouri River points or the material is shipped out, and that these packages come back paying a twenty cent rate?

A. I don't know, I never shipped any.
Q. Do you know anything about the hog business?
A. I know something about hogs.
Q. How much do hogs dress?
A. Well, they will run as a rule about 1/5 that they lose.
Q. Do you think the witness who stated they will dress 82 or 83 per cent., you think those witnesses are mistaken. You would not agree to that?
A. I have not slaughtered any hogs in a good many years, and I am not prepared to state just what that percentage would be.
Q. Don't you know, sir, that hogs, that is that the dressed meat of the hog and the packing house products together with the salt and the packages in which they are contained weigh out more pounds than the live hog?
A. I do not.
Q. Do you know to the contrary?
A. No sir.
Q. You don't know anything about it?
A. I don't claim to.
Q. If they do weigh out more than hogs when they are shipped back to Chicago from Missouri River points, then the packer over there is at a disadvantage to that extent, isn't he?
A. I should think he would be to that extent, if that is true.

1964 Mr. SEVERANCE: That is all, sir.

Mr. LYNDE:

Q. Now, suppose the rate on dressed beef from Kansas City to Chicago had been the same as the rate on live stock at the time you made this shipment of 5,000 head of cattle, which market would you have shipped to? Would it have changed the market you shipped those cattle to?
A. If the rate on the——
Q. Would it have changed the market that you would have shipped to?
A. It would have its effect on causing me to change my opinion as to where I would sell those cattle.
Q. You have already testified that the price in Chicago controls the price in St. Louis and Kansas City and those other western markets. That is true, isn't it?
A. I think it is.
Q. So when you shipped those 5,000 head of cattle you had the choice of going to the western markets or to Chicago?
A. Yes sir.
Q. That was an advantage to you, wasn't it to have the choice of those different markets instead of being dependent upon a single market, wasn't it? Just please answer the question.
A. In a measure.
Q. The more markets a man can ship his product to, the better he is off?

A. If there is competition between those various markets.

1965 Q. Well, that is the case, isn't it, there is, isn't there?

A. A very limited competition.

Q. You say the Chicago market controls the prices of these other markets?

A. In my judgment the large buyers in this market control the price of cattle that they pay in the other markets.

Q. Is that because they are the same buyers in the other markets?

A. Yes, the same principals are the buyers. They have large slaughtering house- in other markets.

Q. Is it from their purchases in the other markets that control their prices here in Chicago or is it the prices paid in Chicago that control the other markets?

A. Chicago is recognized as the largest market as I have testified and necessarily the price here would have an effect in controlling or influencing the values of cattle in other markets.

Q. So it is the price paid for cattle here in Chicago that controls the price in these other markets, as I understand you.

A. To a certain degree, yes.

Mr. SEVERANCE:

Q. Did you state what per cent. the cattle will shrink coming from Kansas City here?

A. It depends on their condition when they were weighed at Kansas City. You take a drove of cattle that is well filled as we term it, have had plenty of hay and water and weigh them up

1966 then, weigh that animal up then and transport him to Chicago and water and feed him as much as you can, the shrinkage will be from 20 to 30 pounds and in some instances not more than 15.

JAMES PEABODY, having been duly sworn, resumed the stand for further cross-examination by Mr. BAXTER, and testified as follows:

Q. You were examined as a witness for the defendants in what is known as the Cattle Raisers case last year, were you not?

A. I was.

Q. You gave certain statistics relating to the Atchinson, Topeka & Santa Fe Railway System for the year 1903, did you not?

A. Yes sir.

Q. I wish you to state from the figures which you made in that case how does the cost of moving the cattle traffic compare with the cost of the movement of the average of other freight traffic and state your reasons for such opinion as you may express. I refer you to page 73 of your testimony in that case.

A. (Reading from transcript.) In answer to the question, "Why does it cost more to move the cattle traffic than other classes of freight traffic?" I said, "It requires a great deal of special

1967 equipment. Trains are run faster, they are run lighter, they involve a large amount of damages, they require a great deal of special equipment and it is altogether more expensive."

Q. Now what proportion of the live stock cars of the Santa Fe

System move to the points of shipment empty? I refer you to page 78.

A. In answering that question I stated that the cattle cars were not usually loaded, the live stock cars, when they were going back for loads. The truth in regard to the movement of cattle is simply this; when they are not used in connection with the movements of cattle, they are used wherever they can be but when they are needed for the movement of cattle there is not a case in a thousand where there is a load for shipment to a point to which they are going, and the result is that 999 out of every thousand is an empty movement.

Q. How does the tonnage of live stock trains on that system, in proportion to the locomotive capacity, compare with the tonnage of mixed or dead freight trains in proportion to the locomotive capacity. I refer you to page 82.

A. On the middle division—the answer refers to the middle division of the Santa Fe Road, which is the division between Emporia and Newton, over that division it was 65.5 on the mixed train, stock and dead freight mixed, 69.7. On dead freight it was 72 per cent. In other words the tonnage of live stock trains in
1968 proportion to the locomotive capacity was very much less than on mixed or on dead freight.

I have also the movement over the same division for the month of March, 1904, in which in the same way the load of the stock train was 59.4 of the locomotive capacity; the load of the mixed train 69.9 per cent. of the locomotive capacity and the load of the dead freight train was 75.2 of the locomotive capacity.

1969 Q. For the year 1903 what was the amount paid by the Atchison, Topeka & Santa Fe system for loss and damage on all freight, and how much of that amount was for loss and damage paid on live stock and what per cent. of the loss and damage on all freight was the loss and damage paid on live stock? I refer you to page 84.

A. The loss and damage on all freight paid by the Atchison, Topeka & Santa Fe System for the year 1903 was $330,599.85. The loss and damage paid on live stock included in that amount, was $97,244.33, equal to 29.40 per cent. of the total loss and damage paid. That did not include any damages for personal injuries.

Q. For the same year what were the gross freight earnings of that system and what were the live stock earnings of said system and what per cent. of the total freight earnings were the live stock earnings?

A. The gross freight earnings were $45,846,659.00. The live stock earnings were $3,548,531.00, which was 7.74 per cent. of the total. In other words the earnings were slightly less than eight per cent. of the total and the payments for loss and damage on live stock compared with the total payments of loss and damage were almost thirty per cent.

Q. During the same year, state the amount paid by that
1970 system for damages to persons in charge of stock? I refer you to page 85.

A. The Santa Fe System paid out during the same year

$26,754.81. The total personal injuries were $519,258.22, but that included all classes of personal injuries.

Q. During the same year what did the total carload freight of said system amount to in tons and what did the cattle carried by said system amount to in tons? I refer you to page 86?

A. The cattle carried by the road that year were 819,961 tons, and the total carload freight amounted to 12,449,422 tons.

Q. Take the item of the time of the men and coal consumed and so forth, in the process of loading the average stock train at a stock yard or stock pen, state for how many miles such cost would pay the same expense of moving the same train on the Santa Fe System. I refer you to page 91.

A. The closest estimate I have been able to make of the cost of loading a stock train is equivalent to a run of fifty miles. That is the time of the men and the coal and so forth consumed in the process of loading represents an expense which will transport that train for about fifty miles.

Q. On the same System how does the average speed of the live stock trains compare with the average speed of the freight trains? I refer you to page 94.

1971 A. As closely as I can estimate it we make at least thirty per cent. better time on the live stock traffic than we do on the other.

Q. On said system what is the average haul of live stock? I refer you to page 96.

A. As near as I am able to estimate it it is perhaps from 300 to 350 miles. That is the average haul represented by our movements for the year in question.

Q. In compiling C 1 which you put in evidence yesterday, as an exhibit to your testimony, you showed the total cost per car figured on the weight of the car, and contents of live stock shipments. I understand that in arriving at the total cost per car you did include for each division of your road all of your operating expenses, and that, of course, included all expenses that are incidental to the stock movement and not incidental to the movement of any other freight; but in compiling that exhibit I wish to know if you segregated the extra expense of handling live stock so as to show how much more it cost to move than other freight?

A. No, sir. Those figures are based on the average movement of all freight. The items in this exhibit do not segregate any of the particular expenses incidental to the live stock traffic.

Q. In making up the statements for Mr. Ripley, which he
1972 used in his testimony, to show the relative cost of handling the cattle and packing house products and dressed meats respectively, did you segregate the extra expense of handling the live stock so as to show how much more it cost, if any, to move the live stock than the packing house product or dressed meat?

A. I did not.

Q. Suppose I was a large shipper of any commodity, either cattle, or wheat or cotton or any other commodity that moved in large volume over your system of road; assume that your road was reason-

ably full of traffic, had about as much as it could handle, but could handle it with comparative ease; suppose I should ask you what rate you would make to me for handling the commodity owned by me to give that a preference over the movements of all of your other freight commodities. What kind of a rate would you put to me for that kind of a movement as compared with what you would charge me if I allowed my traffic to move along like everybody else?

A. Well, I would not make it at all to start with, but if I had to make it I should want 50 to 100 per cent. more. If I had to move it when you wanted it moved and just as you wanted it moved, that would be my answer.

Q. If it was to have precedence over every other kind of
1973 freight. Isn't that exactly the case in the movement of live stock? Has not the custom and usage on that system as well as every other system given precedence to the live stock traffic over every other freight that is moved?

A. Perhaps not all freight, but to a great extent that is true. We try to give citrous fruit on our line, perishable freight of that sort pretty nearly the same service as live stock, but as a rule live stock is certainly moved in preference to all other dead freight.

Examination by Mr. SEVERANCE:

Q. You stated yesterday, by information received from representatives of your road in Kansas City that the cost of switching a stock train of cars or other train at Argentine and Sheffield was $9.50, and switching stock from the stock yard, including loading and disinfecting, $11.40 a car. From which point does the most of your live stock come to Chicago, from the stock yards or from Argentine?

—. ——.

1974 Q. Well, isn't it as a rule made up at the stock yards?

A. I do not know that all the stock that goes into Kansas City goes to the stock yards. If any of it came through, it would not go to the stock yards at all, in that case it would all come from Argentine; what proportion comes to the stock yards, I cannot say.

Q. You also gave the cost of switching meat from Twelfth street, and also switching meat from other points; do you get most of your meat from Twelfth street or from other points?

A. I don't know.

Q. You don't know about that?

A. I don't know where they are located. Mr. Sharpe whose information is there is the superintendent of terminals in Kansas City and directly in charge of that traffic.

Q. So far as you know then, the matter might be averaged between the two?

A. For all I know, yes sir.

Redirect examination by Mr. COWAN:

Q. The cost which you gave did not include the $3 or $4 or $5 of the switching charge on packing house products?

A. Oh, no.

Q. It was in addition to that?

1975 A. It was in addition to that; that was the cost to us in our service, not what we have to pay for switching.

Mr. SEVERANCE: You say there are other roads, Mr. Ripley said, that don't have to pay that $3 or $4, that is a peculiar charge against the Santa Fe.

Mr. COWAN: It may be and may be not.

Mr. SEVERANCE: That is what Mr. Ripley said.

Mr. COWAN: There are other roads that reach them and some that do not, the Great Western does reach some of the packers.

Q. Please state the difference in the cost of receiving, transporting and delivering a train load of dressed meat and packing house products from Missouri River, that is, from Kansas City to Chicago, and a train of live stock of equal gross tonnage received and transported from Carrollton on your line to Chicago?

A. On the basis of the average cost, which, of course, is the only basis that I know——

Q. I am just asking for the difference.

A. Yes, on the basis of the average cost, the difference would be about $400, almost exactly $400.

Q. More for which?

A. More for the packing house products or dressed meat, for the packing house products than for the live stock from Carrollton.

1976 Q. Please state the difference in cost to your road of receiving and transporting and delivering a train load of dressed meat and packing house products from Kansas City to Chicago and a train of live stock picked up at stations on your road beginning at Carrollton and averaging three or more cars per station, so as to make at the end of 150 miles from Kansas City, a train of equal gross tonnage to the dressed meat train.

A. $484.97 on the basis of average cost.

Q. More for which?

A. More for the dressed meat and packing house product train than for the live stock train, of live stock cars picked up through Missouri.

Mr. SEVERANCE: Do you think it would cost more to pick it up than to carry it clear through?

Mr. COWAN: I am not through with the witness.

Q. What does it cost your company per car to start an engine and crew light from a point 50 miles east of Kansas City, and pick up a train of 30 cars of live stock of equal amounts at stations between Carrollton, assume that to be 50 miles, and a point 150 miles northeast of Kansas City?

A. A point 150 miles northeast of Kansas City?

Q. Well, east on your line, in the direction of Chicago?

A. Oh, east of Kansas City. The cost of a train of that sort, total cost is $1,442.85, which divided by 30 cars makes $48.09 a car for the total transportation cost, which, of course, includes in-

1977 terest and taxes.

Q. What is the cost per car for the picking up service at the stations as described in the question?

A. As closely as it can be figured, it amounts to $1.35 per stop, and it depends on the number of cars we pick up at the stop to know how much it is per car. In this illustrative example that I have here, we picked up three cars at each of these ten stops, at a cost of $1.35 per stop.

Q. And that would be a cost of 44 cents per car?

A. A little over 40 cents per car. It would cost the same to pick up one car as three practically.

Q. Now, in your opinion what ought the relative rate to be from the Missouri River to Chicago and points intermediate—first, I will put it Missouri River to Chicago, on packing house products and dressed meat, and on cattle.

Mr. SEVERANCE: I object to that as not redirect your Honor, that was gone into before.

The COURT: Well, let him answer.

A. My conviction on that subject, based on a good many years' experience, is that the raw product in every case should be carried less than the finished product, and in a case like the dressed meat, which is a highly finished and perishable product, the rate should be at least 50 per cent. higher than the rate on cattle. On
1978 packing house products, it should be perhaps 20 or 25 per cent. higher. In other words, if I was to make the rates as made on a basis of to-day, allowing cattle at 23½ cents, I should put the packing house product at 28½ cents, and the dressed meats at 33½ cents.

Q. Has that been a prevailing rule, and judgment among rate makers of the country with the exception of this condition between Chicago and the Missouri River?

A. There has been no rule among the rate makers of the country. There is no science of rate making, it is a matter of judgment but it has been, however, a general rule that commodities should bear different rates in proportion to their ability to pay the varying transportation charge. It was recognized that unless that condition obtained, very many low classed commodities could not be carried at all, and very many high classed commodities would be carried at very much less than the service was worth, and that general rule has obtained; as the product progressed towards the finished state, it was usually rated higher, and as more value attached to it, it took on an additional rate. That was the general principle on which rates were made, if there is any principle.

The COURT: Why should the finished product bear a higher rate than the raw material?

1979 A. If you make a flat rate, make the same rate—of course, roughly speaking as far as the haul is concerned, it does not cost the railroad, if any more, to pull a train of gold than it does a train of iron, and so with all varying commodities. If a flat rate obtained on everything, the same rate per mile obtained on all commodities, there are hundreds of commodities that could not be handled at all, the rate would be prohibitory. That is, the cost of the material where it started, added to that arbitrary rate, would be

more than the stuff could be used for at destination. And so the railroad companies adopted what they conceived to be the most economic scale, and attempted to put upon the various commodities, not all the traffic would bear but what it rightfully ought to bear in view of all the considerations, and it was only on such a plan as that that the commerce of the country could have been built up to its present stage. It would have been simply impossible to developed the railroads or the country on any other principle.

Q. That is the principle that raw material should bear less than the finished product of the same raw material?

A. That is the general principle on which it is based.

Mr. COWAN:

Q. Mr. Peabody in view of what you have said, is it true or not that rates are made with reference to one commodity producing the same profit as another?

1980 A. The same profit?

Q. Yes.

A. To whom?

Q. I mean to the transportation company?

A. Oh, no. No relation to the cost. Cost never was considered at all in making rates. I never knew it to be considered except when it got down below the cost of hauling, then they stopped hauling; for instance, we cut out the cattle rates on our line because it wouldn't pay, we didn't take the business because it wouldn't pay.

Q. What cattle rates?

A. We cut out those of the T. & P. connections, down at Pecos for that very reason.

Q. You had to haul a long distance, and you absorbed the T. & P. rate to Pecos, and that put it below any rate in the country?

A. Yes sir.

Q. In other words, you could not pay the T. & P. rate by absorbing that rate to Pecos and take the stock from Pecos over your line through Kansas without hauling it at a less cattle rate than any other road in the country?

A. That is true, and it was so low we did not want it at all, and that was the reason for the petition for the advance in the rate. It was so low we felt we could not do the business at the rate.

Q. Now, Mr. Peabody, when you said that the rate on the packing house product ought to be 50 per cent. higher—not the product, the dressed meat I mean—and the rate on the product some-

1981 what higher than the live animals, did you have reference to the relative cost in the service which you have mentioned?

A. Not at all.

Q. Or to that and all of the conditions?

A. Not at all. I paid no attention to the cost on that proposition. If the cattle cost a good deal more than the—a good deal more to handle than the dressed meat, I still say the cattle ought to be at less rate than the dressed meat.

Mr. SEVERANCE:

Q. Just a moment; I would like to have the Court hear that answer. Your Honor was engaged, and it is a very important answer.

(The previous question and answer were then read.)

The WITNESS: Or perhaps to express it better, the dressed meat ought to be at a higher rate than the cattle.

The COURT: How do you make that out, if it costs you a good deal more to carry the meat?

A. Because I think that that is the correct basis of making the rate. The question of cost, as I have explained, cannot come into the making of all rates with any degree of justice to the commerce of the country.

Q. Why is it the correct basis? Simply because you can carry some crude products by giving them a low rate and not
1982 otherwise, is that the only reason?

A. So that we can move a large amount of stuff of all sorts.

Q. Have you a right to make one man bear the other man's burdens?

A. Well, I guess so, yes sir.

Q. That is, you think you can get more traffic and get more out of it in the end for your company?

A. No, it is fully as much with a view of promoting the interest of the public as of the railroad, the interest of the public and the railroads are absolutely identical in this regard. An adjustment of rates which will conserve the largest movement of product of all sorts, is the best for the railroads and all of the people, and it is with that idea that these rates are made.

Q. What good does it do the people to be carrying stuff back and forth?

A. There are a good many men that have stuff, that, if they could sell, would be profitable to them to sell, if they could get any price for it. If our rates were made on the basis of a flat rate on everything, they simply could not move it, and could not sell it, it would rot at home. For instance——

Mr. DAWES: Take live stock.

A. Take live stock, if you please. That is a very good illustration. If we make a rate on live stock, that they can move it, why, it is profitable for the man out in Kansas to raise live stock.
1983 If we make a rate that would not move them, it is not profitable.

The COURT: They would have to quit raising it?

A. They would have to quit raising it. The business of the country has been developed on that principle, that as the products went up in the scale of completeness and finish towards the higher grades, and more values, the rates have been advanced. It was the value of the service in consideration of the character of the article that has been largely determinative in the fixing of the rates.

The COURT: The service to the man ow-ing the commodity?

A. To the man ow-ing the stuff.

Mr. Cowan:

Q. Mr. Peabody, I will ask you if it is sometimes considered in the nature of the tax, and in that connection I would like to ask if you have ever read Mr. Stick*ney*'s essays on that subject published in a current book on the subject of transportation.

Mr. Severance: I submit that is immaterial.

Mr. Cowan: In which book he has maintained that same principle.

The Court: It may be more important to know whether the Court has read it.

The Witness: Shall I answer that?

The Court: If you want to? Have you read it?

A. I have read it.

1984 Mr. Cowan:

Q. Now, if you base it upon the relative cost of service between the packing house product and the dressed meat and the live animals, according to the figures that you have given, still would the rate be higher on the packing house products and the dress- meats than on the cattle?

A. Based on the cost of the service, the rate would be higher on the packing house products and dressed meats, or should be higher, rather than would be?

Q. Now, going into the matter of your testimony in the Texas rate case, that case Mr. Peabody, covered the Southwestern and West of the Missouri Rates principally, didn't it?

A. Evidence was introduced covering all the rates in the country, as near as I can remember.

Q. I know, but your shipments?

A. So far as the Santa Fe was concerned, it was all from the west and southwest to Kansas City and Chicago and the northwest feeding points.

Q. Your evidence with respect to the cost of receiving the live stock at the various places where you received it, and the transportation was a different proposition to the traffic between the Missouri River and Chicago, wasn't it?

A. Altoge*ht*er.

Q. The two could not be compared, could they Mr. Peabody, except to show a contract?

A. A good deal of stock came through the Missouri River

1985 to Chicago.

Q. But I am talking about the service beyond the Missouri River in the range country where you gather these cattle, the character of the service?

A. The character of the service is, in some respects the same. We sometimes get whole train loads of cattle out of Kansas City. Sometimes we get whole train loads of cattle out of some of those shipping points.

Q. And when you do that, you are willing to haul them on for

16 cents more, if they bring them on from Kansas City to Chicago, are you not, and do do it?

A. We do it because that is the proportion of the ruling rate, we wish it was not.

Q. But you have always done that?

A. There has always been a proportional rate so far as I remember now.

Q. Isn't it a fact that when you made your estimate of the cost of service that you took the total tonnage on a given Division, that is to say the total gross ton miles of the loaded cars on that Division as a unit upon which to make your estimate?

A. The gross ton miles of the loaded and empty cars, of the tonnage we handled.

Q. And you divided the earnings by the gross ton miles on the particular division?

A. No — divided the earnings? No sir, I divided the ex-
1986 penses by the gross ton miles.

Q. I beg pardon, put my question "expenses." Then isn't it a fact that you would take a car load of cattle, estimate the gross ton miles of that car and the return of the empty, and multiply that by the expense per gross ton mile, which you obtained by the division in the other case?

A. To ascertain the cost?

Q. Yes.

A. Yes, I took the gross tons miles that was represented in a car moving over that Division, and multiplied it by the ascertained expense, the ascertained average expense of all freight over the same Division.

Q. Per gross ton mile?

A. All on the same basis of gross ton mile.

Q. That included in the computation the gross weight of the car and the weight of the contents in all shipments of less than car load and local freight?

A. Everything handled.

Q. From station to station?

A. From station to station.

Q. It included the expense of maintenance of every railroad station, and every service upon the road, didn't it?

A. The entire operating expense of the road, that is of that portion of the road.

Q. It included the maintenance of way and structures.
1987 Bridges and culverts and everything of that sort?

A. Yes sir.

Q. And it included in it——

Mr. SEVERANCE: He said it included everything, you can't ma it any stronger by leading him along and having him say each ite

Mr. COWAN: I am examining the witness.

Mr. SEVERANCE: I object to his leading him.

Mr. COWAN: It is cross examination. Mr. Baxter covered that.

The COURT: He has covered that by his answer, hasn't he?

Mr. COWAN: Do you consider Mr. Peabody, that all freight ought

to bear the same proportion in tonnage of the revenue tonnage, or in the gross tonnage of the car and the revenue freight, of maintenance of bridges, or roadway, of station service——

Mr. SEVERANCE: He has already said that the cost had nothing to do with it.

Mr. COWAN: I am examining the witness.

Mr. SEVERANCE: I object to the question then, as leading and as already answered.

The COURT: Wait a minute, he hasn't got the question asked.

Mr. COWAN: I am asking if he considers each sort of freight ought to pay the same proportion of that sort of expenses which are in the nature of fixed expenses.

1988 The COURT: Have you got the question completed, if so, let it be read.

(Question read.)

Mr. COWAN: Strike it out. I will ask the question again.

Q. Do you consider that all freight ought to pay the same proportion of the expenses of maintenance of way, and structure in proportion to the weight of that freight, or should it pay it in proportion to the value of that freight.

Mr. SEVERANCE: I make the same objection.

The COURT: The objection is overruled. Now answer.

A. I hold that it should not pay the same proportion, otherwise rates would always be exactly the same on all commodities.

Mr. COWAN:

Q. Exactly.

A. But I also hold that no considerable quantity, that is no commodity of considerable volume, of which there is much business, should be based on less than the average cost of freight. I am willing to say that a road ought to carry at times down to the average cost for the sake of the commerce of the country, but it should not be compelled to carry at any time at less than the average cost. In other words, we would put the profit, that is we would put the profit the road made on some commodities and no profit on others, that would be the result of it.

1989 Q. Now, if nothing was hauled at less than the average, then should anything be charged more than the average. If so, what would your average be?

A. If everything was hauled exactly at the average, we would have a flat rate on everything.

Q. That is just what I thought it came to, if no considerable commodity should be hauled at less than the average.

A. But some commodities should be much more than the average.

Q. Then what would the average be?

Mr. SEVERANCE: I think the cross examination is correct, there is no average.

Mr. COWAN:

Q. I do not see how you could haul on less than the average if you brought it up to the average, it would be a flat rate.

A. This is expenses, not the rate. The average is expenses. You are talking expenses on one side and rate on the other. I say no rate should be made less than the average of the expense, but some rates should be more than the average of the expense.

Q. Now, you have your expense from Ft. Worth to Kansas City, including the cost of hauling the loaded car and the empty car, taxes, fixed charges per mile, and per car. The total cost per car you put at $63.77. What was the average operating expense per car mile on your road for that year?

1990 A. The average expense per car mile, I do not know.

Q. Your annual report shows that doesn't it?

A. Well, I guess not.

Q. Well, it shows the method by which you could estimate it, it shows the total car mileage and total operating expenses?

A. Yes, but remember that the operating expense includes passenger expense as well as freight. The car mileage does not, freight car miles.

Q. Even if you divide the total operating expenses, including passengers by only the freight car mileage, you would still get——

A. That would not be the expense per car mile.

Q. Well, it would be a good deal more, wouldn't it?

Mr. DAWES: I object to this, going into this speculative field.

The COURT: The objection is sustained.

Mr. COWAN: There is no other way by which I can test the accuracy of his calculations, except by asking him a few of these questions. I will not be very long.

Mr. SEVERANCE: I will make the objection on the ground that he ought not to be allowed to impeach the testimony of his own witness.

Mr. COWAN: I did not bring out this evidence.

The COURT: Ask him the next question.

Mr. COWAN:

Q. Isn't the average cost to your road per ton mile ascer-

1991 tainable if you divide the total operating expenses by the total ton mileage?

A. No sir, that includes passenger traffic also.

Q. And that would make it too great?

A. Yes. Besides it does not show anything about the gross ton mile. The annual report to which I suppose you referred has not the gross ton mile, that is simply the revenue ton mile.

Q. Yes, I am talking about the revenue ton mile. Is that not included in your total operation expenses, the cost of hauling the empty cars as well as the loaded car?

A. Yes sir.

Q. Is that not also included in your total operating expenses, the cost of all terminals, and all other operating expenses?

A. Every expense of the road, including the operating expense, except taxes and interest.

Q. Have you a copy of your annual report?

A. Not here.

Q. Can you furnish us one for the year 1904, for which this was made out?

A. Yes sir, is that 1904, or 1903?

Q. Well, 1903 is already in evidence.

A. I think that is for 1903 that you have there.

Q. If it is that will be sufficient, otherwise we will want one for 1904. Now, have you your exhibits "E and F" filed in this case, showing the make up of trains at Emporia?

1992 Mr. SEVERANCE: If the Court please, I will object to this as not redirect.

Mr. COWAN: It is cross examination of Mr. Baxter's evidence.

The COURT: Mr. Baxter just cross examined this witness, and is not your rebuttal?

Mr. COWAN: Mr. Baxter put in a lot of exhibits in his testimony in the Texas case, that I never inquired about, he made him his witness, and I am simply cross examining as to that.

Mr. BAXTER: I have not the slightest objection to making Mr. Peabody my witness if desired, but the questions I put to him were strictly cross examination of his original testimony.

The COURT: He will furnish you anything you want him to that he can get; you can ask him that after awhile.

Mr. COWAN: There is one other question I want to ask Mr. Peabody.

Q. When you spoke of the less number of cars in the trains of live stock, I will ask you if it was not afterwards ascertained in that case from the statistics from the Division Superintendents that the actual movements of trains showed a larger number of loaded cars in the trains carrying live stock than in the average of the other trains. Did you examine those statements?

1993 A. I did not; I do not know anything about it. I know that I took the movement that you wanted, that you called for and took the movement of every train on the Division called for in the time mentioned, and gave you the result as I have testified.

Q. Isn't it a fact also, with respect to the amount of loss and damage claims, that your Auditor prepared and filed a sworn statement in that case covering a period of six years, in which the total amount of loss and damage to live stock amounted to $232,000?

Mr. SEVERANCE: I object to that as incompetent.

The COURT: I don't see how it is competent.

Mr. COWAN: He asked how much it was for the year 1903. I am asking how much for the period of six years. That will show the average.

The COURT: If he has a report, let him bring it in.

Mr. COWAN: I asked him yesterday if he could get me the report, if he could find it. I don't know as he has been able to find it.

The WITNESS: I asked the Auditor and he said he made no such statement. I asked him for a statement for six years.

Mr. SEVERANCE: The objection is withdrawn.

Mr. COWAN: It is very peculiar, it is on file over his signature.

The WITNESS: Perhaps it may be well to explain your
1994 Honor, that there may be a confusion of terms as to "Auditor."

The COURT: Proceed with your questions.

Mr. COWAN:

Q. I wish you would ascertain Mr. Peabody, for six years what it cost your company for the total loss and damage claims, and what it amounted to per car, if you have not done so, for live stock, and do the same with respect to dressed meat and packing house products, so that we may have accuracy in regard to it rather than guessing.

Q. Do you know now how much claims you paid last year for packing house products and dressed meats?

A. I do not.

Q. Is it not a fact that in the shipment of live stock cars back from Chicago, you get a great deal more loading for your cars back than you get in the trans-Missouri *Company?*

A. Without having any definite knowledge, I should say as a general proposition, yes.

Q. Do you remember a statement made by your Car Accountant or Superintendent of Transportation, Mr. Carnes (?) in which he showed that of the total car mileage, 16 per cent. of your live stock cars were returned loaded, 16 per cent. of the return movement?

A. That is for the movement throughout the year?

Q. Yes.

A. I think likely that is very near the facts, I presume
1995 exactly the facts. My testimony however, related to the time when the stock was moving in the spring and fall.

Q. Yes, and that had relation to the range movement for instance?

A. To the range movements, when the movements were heavy we got cars back as quick as we could without reference to the empties. But other times of the year, we used the cars whenever we could.

Q. Isn't it a fact that the testimony which you read in regard to the empty movement of return cars, was as to their return movement to the place of loading empty out on the ranges, and not their return movements from places like Chicago?

A. No, not exactly. We call the return movement, the movement of the empty to the point, regardless of whether it had come loaded from that point or not. If a stock car was called for at Amarillo, and we sent it from Kansas City to Amarillo to load, we would call that a return movement of the car although it had not been at Amarillo before, the movement of the empty is called a return movement regardless of whether it goes to the point it originally came from or not.

Q. Will you make a statement, or cause a statement to be made by your Superintendent of Transportation or Car Accountant, show-

ing what percentage of cars moving between Kansas City and
1996 Chicago of live stock business returned loaded for the year 1903?

A. I don't believe he can make it.

Q. Mr. Peabody, isn't it a fact that the volume of the traffic in a particular commodity has a great deal to do with the rate you can afford to make?

Mr. SEVERANCE: I object to that as not redirect your Honor. That is part of his testimony in chief if proper at all.

The COURT: He may answer.

A. Any commodity that moves in large volume so that we can handle it at a minimum expense, will affect the cost to some extent, and to that extent we could afford to make a less rate, although there is some question whether we ought to or not.

Q. Isn't it a fact that when a whole community is engaged in a particular business, when their prosperity depends upon that, that it is a matter for important consideration, in giving the lowest possible rate to the product produced in that business?

A. We always try to conserve the interest of any community so as to promote the prosperity to the highest degree. If there is a manufactory located in a community and it is necessary to make a rate, in order to get that product in to the market, we do the best we can towards helping them out. That is done by all railroads.

1997 Q. And that same thing applies to agricultural communities?

A. That is a general principle. We seek to promote to the utmost the commercial prosperity of the country by making the rates that will move the largest amount of property.

Cross examination by Mr. SEVERANCE:

Q. Kansas City is largely dependent upon the packing industry is it not?

A. It is quite a large industry at Kansas City.

Q. One that under the rule you have just stated you would encourage, would you not?

A. If it needed encouragement.

Q. You don't make any such limitation to your answer.

A. My answer was exactly limited to that: If it was necessary to promote the prosperity of it, we made that rate. Now, if it was necessary to promote the prosperity of Kansas City by making a rate on packing house products we might do it.

Q. Mr. Peabody, you said the rate on dressed meat ought to be 150 per cent. of the live stock rate. Now suppose that the rate on dressed meat from Kansas City was 150 per cent. of the live stock rate, that would in your opinion, would it not, transfer the packing business to Chicago?

1998 A. According to my recollection when the rates were put on that basis, it had the effect of transferring a good deal of it to Kansas City.

Q. When was that?

A. Some years ago.
Q. Tell when it was, fix the dates?
A. I say, according to my recollection.
Q. Do you know anything about it?
A. Yes sir, I know the rates——
Q. What were the rates?
A. I know the rates on packing house products some years ago were considerably higher than they were on live stock.
Q. What was the rate?
A. I don't remember the exact rate.
Q. What was the live stock rate?
A. I don't remember that.
Q. What was the dressed beef rate?
A. I don't remember that.
Q. They were the same for a long time, weren't they?
A. I think they were, yes. Well, amid all the fluctuations that have been in that business in the last 15 or 20 years, I can't pretend to remember what the relative rates were.
Q. You remember when your road put the live stock rate down to 12 cents, don't you, about three years ago?
A. Yes sir.
Q. Immediately prior to that time had the rates been the
1999 same on packing house products and dressed meats?
A. I don't know.
Q. I mean the published rates, not the rates you collected, but the published rates, wouldn't that be the same?
A. I do not know what rates we collected or the published rates.
Q. You don't know anything about it?
A. No, I was not in the rate business at that time.
Q. But you do recollect the fact that they put that rate down to 12 cents?
A. I saw it so stated in the newspapers.
Q. That is all you know about it?
A. That is all I know about it.
Q. You say you think it is the duty of the railroad company to put in rates that will build up the country, that is what you stated, wasn't it?
A. Well, I think so.
Q. Do you think you would be putting in a rate to build up the country if you established such rates as would almost inevitably push all the live stock from West of Kansas City and Omaha, through to Chicago for slaughtering. Would that build up the Missouri River Valley?
A. It is a question of opinion. Some people might think it is better for the Missouri River Valley to raise stock and ship it to Chicago, and some might think they should slaughter it there.
2000 Q. I am asking for your opinion, not for a general opinion.
A. As a general proposition it is better for a country to develop to its highest possible state the finished product where it is grown.
Q. That is it exactly.

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A. No, I was not in the rate business at that time.
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A. I saw it so stated in the newspapers.
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A. Well, I think so.
Q. Do you think you would be putting in a rate to build up the country if you established such rates as would almost inevitably push all the live stock from West of Kansas City and Omaha, through to Chicago for slaughtering. Would that build up the Missouri River Valley?
A. It is a question of opinion. Some people might think it is better for the Missouri River Valley to raise stock and ship it to Chicago, and some might think they should slaughter it there.
2000 Q. I am asking for your opinion, not for a general opinion.
A. As a general proposition it is better for a country to develop to its highest possible state the finished product where it is grown.
Q. That is it exactly.

A. That is a general proposition.
Q. That is a general proposition?
A. Better for the country.
Q. Do you think an exception should be made of that in the case of Chicago?
A. Oh, no.
Q. Do you think that it is a matter of sound public policy on the part of railroads to divert the live stock which is raised in Kansas and Nebraska and western Iowa and western Missouri from the nearby market, packing establishments along the Missouri River and bring them over to Chicago for slaughtering, would that be sound public policy?
A. That is not the same question at all.
Q. I am asking this question now, take one question at a time.
A. As I stated before, that is a matter of opinion.
Q. I am not asking for anybody's opinion, Mr. Peabody but yours, I want your opinion on that.
A. I don't think that I have formed an opinion on that subject.
Q. You are unable to give an opinion?

2001 A. I rarely give an opinion without an extended investigation, and I have made none on the question of whether it is better to locate the packing houses at the Missouri River or Chicago. I have not investigated that proposition at all.

Q. You don't know anything about it?
A. I don't.
Q. But you are certain that in fixing the rates on packing house products, and on dressed meats and on live stock, all three of them, you would eliminate from consideration entirely the question of cost, with the possible provision that you do not want to reduce the cost below the cost of movement?
A. The cost of doing the business?
Q. Yes.
A. As a general proposition, I should claim that was the case.
Q. I am not asking as a general proposition, I am asking as to this particular proposition that, in the movement of packing house products and dressed meat and live stock, and fixing the rates, you will eliminate entirely from consideration the cost of moving the respective products or commodities?
A. Not perhaps entirely from consideration, but very largely.
Q. Well, wouldn't you entirely, so far as you can keep the rates up high enough to pay the actual expense of moving, your average expense that you spoke of?

2002 A. Yes, I think if I was making the rate, and all three of the commodities would pay the average cost of moving, that I would pay very little regard to the cost in determining which rate should be the highest.

Q. Now, would you, in view of that rule that a commodity must pay the average cost of moving, you would say would you not that the present cattle rate is too low?
A. The cattle rate and dressed meat and packing house products rates are all too low.

Q. Well, as a matter of fact the 23½ cent rate is below the actual cost including your interest, is it not acording to your figures?

A. I have not figured the 23½ cent rate, the 20 cent rate is what I figured.

Q. You figure that 20 cents is less than cost?

A. Yes sir.

Q. Just take your figures and see if 23½ cents rate would not still be below cost on that basis, figured out in the same way you figured on the 20 cent basis?

A. On live stock?

Q. Yes, it won't take but a minute.

A. (After making computation:) That is 22,000 pounds, that would be $51.70. It would be slightly more than the operating cost, but not as much as the total cost, still below the total cost.

Q. That is what I mean. Of course, you have to earn your
2003 inter-st on your bonds, don't you?

A. Certainly.

Q. And earn interest on your investment?

A. Yes sir.

Q. And you have to earn your taxes?

A. That has to go in.

Q. And you have to earn your operating expenses. Now, taking those items into consideration, figure everything as you figured for the purposes of this statement that you prepared for Mr. Ripley, on a rate of 23½ cents per hundred pounds, on live stock from the Missouri River zone to Chicago, wouldn't pay you out would it?

A. No.

Q. You would be losing money, you would be doing business at a loss?

A. On the basis of the average cost, yes.

Q. Yes, you would be losing money.

The COURT: Losing money on what basis?

A. On the basis of the average cost, that is the average cost of handling all freight, that is the only way we can get at the cost.

The COURT: But you make money on the moving expense?

A. Oh, there would be more money than would absolutely—than absolutely the moving expense.

Mr. SEVERANCE:

Q. How much more, you have got it right there?

A. Well, on the basis of 55 per cent. for movement cost, of
2004 course, that is an estimate.

Q. That is an arbitrary estimate, isn't it?

A. That is an arbitrary estimate.

Q. I will ask the question this way: Leave out of consideration the interest on your investment and your taxes, and take only the operating expense, how would you come out?

A. Well, that is, on the operating expense, total operating cost is $48.56 against a revenue on the basis of 23½ cents of $51.70. Slightly more than the operating cost.

Q. It would be two or three dollars a car more than the cost but

it would be about seven dollars a car less than the cost if you include your inter-st on your bonds and interest on your investment and taxes?

A. It would be considerably more, it would be nearer $13.

Q. Yes, $13. May I see that Carrollton table that you got up that you read from?

A. There is the Carrollton table and there is the pick up.

Q. Well, you would have no hesitancy then in saying, as a traffic man that the 23½ cent rate is altogether too low, would you from this territory in question?

A. Not a particle.

The COURT: Are there any other instances where the finished product carries a less rate than the raw material?

A. I don't recall it, there may be but I do not now recall any.

2005 Q. Will you look that up?

A. I think it would be perfectly safe to say there is not, but I would not like to say.

Q. Will you make a statement on that?

A. I will.

Q. And bring it in to-morrow.

A. It will involve the examination of thousands of articles to find out absolutely, but I can be reasonably certain by to-morrow, but I don't think there is a case of that sort.

Mr. BAXTER: In that connection Mr. Peabody, in making up that statement for the Court, will you examine the tariffs of railroads south of the Ohio River, and see whether their rate on raw cotton, cotton in bales, is higher or lower than their rate on cotton product, if you please?

A. I can, if we have those tariffs. I do not know that we have the tariff south of the Ohio River in our files, we have no occasion to use them. I can examine the Texas tariffs with that in view.

Q. You can ascertain by telegraphing any of the railroads?

A. I can telegraph, yes.

Q. Just ask them for their rates on cotton to the Ohio River, and their rates on cotton products, any road that carries that through.

Mr. SEVERANCE:

Q. Now, then, Mr. Peabody, in getting up this statement
2006 in which you show a greater expense of moving 30 cars of live stock from Carrollton to Chicago, I mean less expense than moving — house products train of 30 cars——

A. The packing house products train was not 30 cars, it was the number of cars that would make the same tonnage, it was only 23 cars.

Q. The same tonnage?

A. The same tonnage, that was the question.

Q. In the one case moving the live stock from Carrollton to Chicago, and in the other case, moving the packing house product from Kansas City to Chicago, you made your computation of the cost of

moving from Carrollton to Chicago on the basis of your average expense of moving all commodities per ton mile, didn't you?

A. Per gross ton mile.

Q. Per gross ton mile. That is 2.23 mills on the Missouri Division and 2 mills on the Illinois Division, and you did not take into account any extra expenses incident to the movement of the live stock?

A. Not at all. That is the average of our entire business.

Q. And you did not take into account the fact that you were hauling more dead load, that is in the weight of the car, I mean, in hauling the 30 cars of live stock in proportion to the pay load, than you would in hauling the 23 cars of packing house products?

2007 A. That appears in the result. I have taken account of the weight of the car in both cases, the car and the load.

Q. Well, I am speaking about this movement from Carrollton.

A. The weight of the car is included. You see in the heading of the statement it says, "Including the weight of the returned empty cars." Of course, the weight of the loaded car is there to-.

Q. I must have the wrong statement then.

A. Anyway, they all do include the weight of the car both ways. I took the figures, as the basis of the figures as shown in the Interstate Commerce opinion in this same case and used their figures as the basis per car, so there would not be any dispute on the weight.

Q. But you did not separate out in any way any special burdens of the character you have testified to in answer to Judge Baxter.

A. And add them to that?

Q. Yes.

A. No sir.

Q. Applicable to live stock?

A. They are all in the general average.

Q. All in the general average?

A. But they are not put in special.

Q. And all of those special burdens upon the movement of live stock, are charged against the packing house product here the same as against the live stock, aren't they?

A. Just as the burdens on the packing house products are

2008 charged against the other.

Q. What burdens are there on packing house products that are charged against the other, name a few.

A. The switching in Kansas City, the cost of switching in Kansas City is charged.

Q. Do you charge that as a special item?

A. No, that is not charged in a special item. The switching at Kansas City, is incident to all. There is no Kansas City terminals in there at all, the Kansas City terminal is on the packing house product. There is nothing there in the packing house product, because none of those touch Kansas City, in those two statements they start from Carrollton.

Q. I thought the dressed beef train and packing house products started from Kansas City?

A. That starts from Kansas City and the terminals are included in here.

Q. That is what I say. So you did include them. Of course you did not charge any Kansas City Terminals against live stock?

A. No, there is no Kansas City terminals charged against that live stock.

Q. What I want to know is this: You have testified that there are certain incidental expenses to which the shipment of live
2009 stock is subject, such as the maintenance of country stock yards and transportation of drovers and all of that. Now, what similar items of extra expense are there that are applicable to packing house products, there aren't any, are there?

A. Well, the transportation of the ice in the packing house products is one of the incidents, the heavier weight of the car, heavier car than the other car.

Q. Just a moment, let me ask you about that. In the case of packing house products, not dressed meat, but in the case of packing house products, don't you haul less pay freight in proportion to the weight, don't you haul more pay load, in proportion to the weight of the car than you do in the case of live stock. Mr. Ripley says you do?

A. Well, I could not tell that without figuring. The live stock car is not as heavy as the refrigerator car, and the live stock load is not as heavy as the packing house product load. The live stock load is 22,000 pounds, the livestock product load is 28,000 pounds, the live stock car is about 28,000 pounds, I guess, and the refrigerator car is about 36,000 pounds. I could not tell which is the most without making a computation.

Q. You figure it and you will find Mr. Ripley made a correct statement. Assuming that is the case, assuming that Mr. Ripley is not mistaken about that, then this item of the heavier weight of the car would come out, wouldn't it, you would not have that
2010 extra burden on packing house products, would you, you would figure on the other side?

The COURT: So far as packing house products are concerned.

A. Yes.

Mr. SEVERANCE:

Q. That is what I am talking about, so far as packing house products are concerned.

A. So far as dressed meat is concerned, you wouldn't.

Q. Give us some more special items. Don't volunteer so much.

The COURT: You ask questions.

Mr. SEVERANCE:

Q. Give us some more burdens that are peculiar to packing house products, that are not peculiar to live stock.

A. I don't remember any in particular.

Q. You don't know of any more, there are not any more?

A. No, I don't recall any. There may be for all I know.

Q. But there are all of these various things which you have mentioned, which are peculiar to the transportation of live stock?

A. To us there is the switching out to the track on packing house products, which is an extra burden.

Q. I understand that, but that is peculiar to your company, not peculiar to all companies?

A. Not peculiar to our company, other companies pay the same thing.

2011 Q. Some of them do not.

A. Some of them do not, your company I believe, does not.

Q. No.

A. Some of them do not and some of them do, I think.

Q. In fixing rates, Mr. Peabody, you will agree I suppose with Mr. Ripley, that where there are one or more roads that reach these industries without a switching charge, the other roads have to absorb the charge in order to be on a parity?

A. Certainly.

Q. So that that would not be considered in fixing the rates?

A. None of these things are considered in fixing the rates.

Q. Let me ask this: Do these figures showing the gross ton per mile, include passenger service?

A. No sir.

Q. That is purely freight?

A. That is pure freight.

Q. I will ask you one general question: These figures on these statements that you have produced here to-day are made up on the same basis as the figures that you handed Mr. Ripley concerning which he was interrogated?

A. Exactly. And I would like to explain here one thing that was brought up, that I did not make clear yesterday evidently, because I was asked questions about it. That is the inclusion of the mileage. It was assumed here that the mileage of the

2012 refrigerator cars had been included twice; and that I had taken repairs out in one case and had not taken out the mileage in the other. I want to explain that, as I said yesterday, although I took out the total average cost of our repairs in making up the cost of handling the packing house product and dressed meat, there are still some repairs which we do make on those cars. We do not maintain those cars because they are not our cars, but we do make some repairs, such as column bolts, arch bars and pulling out draw bars, which amounts, as near as I can get an estimate, of $1.50 to $2.00 per car per round trip between here and Kansas City. I also did not take out of my computation the mileage which we paid on the refrigerator cars as a part of the expenses, for the reason that the mileage is what we call in railroading, a balance account. We pay mileage and receive mileage, and sometimes we receive more than we pay. Last year we paid more than we received by some $300,000, and that pro-rated over the amount of the business made the cost of the refrigerator car 90 cents. For that reason I ignored both of them. I did not take into account the running repairs that we made

on the one hand or that little proportion of the switching on the other, so that the mileage is not in twice, as was supposed.

An adjournment was here taken to the following day, Wednesday, October 4, at 10 A. M.

2012*a* Train Live Stock, 30 Cars, Made Up in Missouri, Making 10 Pick-ups; Total Gross Weight, 1,155 Tons, Including Weight of Returned Empty Cars.

	Cars picked up, Mo. Div.	Miles.	Gr. ton-miles at 2.23 mills.
Hardin to Ft. Madison.	3	172	19866
Norborne	3	163	18826
Carrollton	3	153	17670
Bosworth	3	141	16286
Mendon	3	128	14784
Rothville	3	122	14091
Marceline	3	114	13169
Hart	3	103	11896
Biddle	3	90	10395
Gibbs	3	73	8432
Total	30	1259	145415 Gr. Ton-Miles at 2.23 mills.	$324.28

Add cost of stops for pick ups at A $1.35 per stop	13.50
30 cars Ft. Madison to Chicago, Ill Div. 237 miles 273735 Gr. Ton-Miles at 2.00 mills	547.47
Chicago Terminals in & out $5.74 per car, 30 cars	172.20
Total operating expenses	$1057.45
Add interest & taxes at 1.77 cents per car mils 21774 car miles	385.40
Total transportation cost	$1442.85

Ex.—Peabody, trans. p. 2012.

2012*b* Train 30 Cars Live Stock, Carrollton to Chicago; Gross Weight, 1,155 Tons, Including Weight of Returned Empty Cars.

Carrollton, Mo. to Ft. Madison, Mo. Div. 153 Miles 176715 Gr. ton-miles at 2.23 mills	$394.07
Ft. Madison to Chicago, Ill. Div. 257 Miles 273735 Gr. ton-miles at 2.00 mills	547.47
Chicago Terminals in and out 5.74 per car 30 cars	172.20
Total operating expenses	$1113.74
Add for interest & taxes at 1.77 cents per car mile, 23400 car-miles	414.18
Total transportation cost	$1527.92

Ex.—Peabody, trans. p. 2012.

2012*c* Train 13 Cars P. H. P., 10 Cars Dr. Meat, Kansas City to Chicago, 458 miles; Gross Weight, 1,155 Tons, Including Weight of Returned Empty Cars.

Kansas City terminals in & out 6.80 per car, 23 cars	$156.40
Sheffield, Mo. to Ft. Madison, Mo. div., 214 miles 247170 Gr. ton-miles at 2.23 mills	551.19
Ft. Madison to Chicago, Ill. Div. 237 miles 273735 Gr. ton-miles at 2.00 mills	547.47
Chicago terminals in & out 5.74 per car, 23 cars	132.02
Total operating expenses	$1387.08
Less proportion for car repairs 6.4 mills per car-mile, 21068 car-miles	134.84
	$1252.24
Add amount paid for car mileage	210.68
Total net operating expenses	$1462.92
Add for Belt switching to packing houses in Kansas City, $4.00 per car	92.00
Add interest & taxes at 1.77 cents per car-mile, 21068 car-miles	372.90
Total transportation cost	$1927.82

2012*d* Total Amount Paid by A., T. & S. F., Account Loss & Damage to Dressed Meats and Packing House Products During Year Ending June 30, 1905.

G. H. Hammond Co	$8.67	
Swift & Co	524.70	account wreck.
N. Morris & Co	3203.33	" "
Cudahy Packing Co	26.30	" "
National Packing Co	49.02	" "
Total	$3892.02	

JAS. PEABODY.

2012*e* Movement of Live Stock from the Missouri River to Chicago During the Period when the 12 Cent Rate was in Force via the Santa Fe, viz., August 1 to December 31, in 1902, and the Corresponding Periods of 1903 and 1904, when the Present Basis was in Force.

	Via all lines.	Via A., T. & S. F.
	Cars.	Cars.
Aug. 1 to Dec. 31, 1902	10,801	2258—20.9%
Aug. 1 to Dec. 31, 1903	10,801	2209—20.5%
Aug. 1 to Dec. 31, 1904	12,890	1184—14.6%

JAS. PEABODY.

2013 WEDNESDAY, *October* 4, 1905—10 o'clock a. m.

Court met pursuant to adjournment.
Counsel present same as before.

Whereupon JAMES PEABODY, resumed the stand for further cross-examination by Mr. Baxter, and testified as follows:

Q. Mr. Peabody, you spoke in your redirect examination by Mr. Cowan, you mentioned a place called Carrollton. How far is that from Kansas City, east of Kansas City?

A. Are those statements here that I had yesterday, showing the movements of that train?

Mr. SEVERANCE: They were left with the reporter.

The WITNESS: Well, I can make a very close estimate.

Mr. BAXER:

Q. Well, about, that is all I want.

A. Oh, not far from 100 miles, I guess.

The COURT:

Q. How much?

A. Not far from 100 miles, between 75 and 100 miles, I should judge. I could tell immediately by looking at the statement.

The COURT: Well, that is near enough.

Mr. BAXTER:

2014 Q. In your redirect examination by Mr. Cowan, you stated that the raw product in every case should be carried at less than the finished product. Suppose you have severe competition in the carriage of the finished product and no competition in the carriage of the raw product, would that fact make any difference in your opinion as to a rate that might be reasonably charged on them respectively?

A. It would not make any difference in my opinion as to the rate that should be charged, but it would make a good deal of difference in my action as to the rates that I did charge.

If some road which was in competition with me would foolishly make a rate below what I thought it ought to be, and below a reasonable rate, it would make a great deal of difference as to my action. I should probably have to meet that rate. They ought not to make a rate below a reasonable rate, but if they did, I should have to meet it.

Q. Would you not feel justified in meeting it provided the revenue derived from the manufactured product left you something over and above the cost of the movement of that product?

A. Yes, so long as it paid anything towards the expenses which would not be affected by the movement of it, it would be profitable in that sense, although, it would necessarily unduly burden something else that ought not to be so burdened.

2015 For instance, if we haul it for less than the average cost, something else would have to pay so much more to pay the

general transportation bill of the country and while we would get, perhaps, something out of the movement of that low rate stuff which would help us pay the charges which were not affected by the movement, it would not pay its proper proportion; still, we would take it, and we would be justified in doing it in a railroad sense.

Q. You spoke about competition. Take the competition that has arisen between the Missouri river and Chicago on these packing-house products, and so forth. Who is to blame for that competition?

A. Well, usually those things are brought about, not only in the Missouri river situation, but in a great many other highly competitive districts, chiefly through the misrepresentations of the shippers.

They come to us and offer us a lot of business and want to know what we can do. We name a tariff. They say they cannot ship it at any such rate as that; they have got to get a lower rate, and they say that they can get a lower rate.

That may be true or may not be, but in order to test it we offer a reduced rate. They say, no, that won't do, and we say it is the best we can do and they leave.

We become convinced by that (whether correctly or not) but we are convinced that somebody has offered a less rate, so we
2016 test the case until we find out what rate will take that business and we sometimes make that rate although it is very possible that our competitor has not named a rate and that the information given by the shipper is altogether gratuitous and is not true, but he has induced us to believe that such is the case, that the competition does exist, and it is just as real to us as if it was actually the case.

Possibly the very line that we think is cutting the rate has not been doing it, and this very party will go to that line and say that the rate is cut, not naming the roads. Shippers don't very often give the road, they don't ever do it, the road that will cut the rate.

By that means, we are induced to believe that the other line has cut the rate when they absolutely have not cut it.

That is usually the condition in connection with the reduction of rates. Railroads never voluntarily reduce a rate. That is self evident, but they are induced to do it by various considerations largely by considerations of that sort. That creates a competition which is very real and very strong.

Q. If you should find that a rate was too high to move a particular traffic that ought to be moved in your opinion, would you not reduce the rate?

A. We frequently reduce rates on that account, if it can
2017 be shown that the rate is too high to move the traffic; in that event we reduce the rate until it can move.

That is very often the case with manufactured articles and even that is carried to an undue extent.

Railroads, in their anxiety to get business, and the shippers (particularly manufacturers) in their anxiety to increase their field of market, to get a larger market, to go to greater distances, they and the railroads get together and very often agree upon a rate to take commodities into far distant fields in competition with something

else that is manufactured in that field and do it at a rate that ought not to be permitted, that is an unreasonably low rate.

As I say, when such a case exists, it entails a burden on some other commodity. For instance, we had a case before the Illinois Commission. The railroads were making four cents on brick, from Springfield, I think clear up into Northern Illinois to compete against the local brick manufacturers in Rockford, Illinois. That was an unreasonably low rate, but they did it in order to give a wider market to the Springfield manufacturers. I think it is a very foolish proposition.

Q. Have you had an opportunity to examine the southern tariffs to see whether the rate on raw cotton in bales from points
2018 in the south to the Ohio river, or to the northeast, are lower than the rates on cotton factory products manufactured in the south?

A. I have not had an opportunity to examine the tariffs, but I understand such is the case and I can very readily see why it is the case.

Q. Why would it be the case?

A. The southern states have had established within their borders, quite a number of cotton mills in the last few years. Once in a while—Well, ever since the war, they have sought to develop the manufacturing of cotton goods which previously were supplied from the mills of New England almost entirely.

Naturally, they manufactured more than the immediate demand of the southern states could take care of. That surplus they wanted to get rid of and they gradually invaded the territory of the northern men to do it and in order to do that they had to get down pretty low, and I presume that in some cases the rate has gotten down to below the rate on the raw product.

There is no competition from the south, or not very much competition from the south on the raw material, raw cotton. Of course, they meet the India competition and some other, but generally speaking, the rates on cotton can be fairly well maintained; but where you have a cotton mill in New England and another cotton mill
2019 in Georgia, they are going to compete pretty sharply in the intermediate territory, and they will, each of them, try to overlap the others and in doing so will make lower rates than ought to be made.

Q. If you controlled a line of railroad running from some point 450 miles west of the Missouri river to Kansas City, and which ran through a country where live stock is produced but where there are no packing-houses situated, and you had established a rate on live stock which did not pay and does not pay the average cost of the transportation; now if you find that between Kansas City and Chicago, the rates on the packing-house products are lower than the rates which were charged west of the river on the live stock, would you (in order to make such an adjustment as you testified yesterday was a reasonable adjustment if it could be made) would you lower your rates still further on the live stock in order to accomplish such a relation?

A. Most certainly not.

Q. Why wouldn't you do it if the relation ought to be sustained?

A. The rate was unreasonably low already, as I understood your question.

Q. Yes.

A. There is no justification in my mind for lowering it still further, merely to accomplish an adjustment with some other commodity that is unreasonably low. That would merely increase the burden which must be laid some where else. To consider the
2020 case that is here, for an illustration. 23 cents on cattle against 20 cents on packing-house product.

If the rate is reduced to 20 cents, there is 3½ cents which might be earned on the cattle, that must be paid for by some other commodities, for the total transportation bill must be paid by the commodities that are hauled.

If there is 3½ cents taken off the cattle, that must be paid by some other commodity somewhere.

Q. In the question which I put to you a while ago, I assumed that your road stopped at Kansas City, and that you did not participate in the transportation of packing-house products except in a westerly direction. Now suppose you extended your line from Kansas City to Chicago. Would you, because your line east of the river competed in the transportation of the product, reduce your rates west of the river on your live stock?

A. Most certainly not. I should not consider that one had any bearing on the other at all on the question of rates.

Q. In your answer to Mr. Cowan you said, "If I was to make the rates as made on the basis of to-day, allowing cattle at 23½ cents, I would put packing-house products at 28½ and dressed meat at 33½." By using the expression, "If I wa- to make the rates," do you
2021 mean that if you were to make the rates yourself, instead of the rates being made by your competitors.

A. Why, certainly. That would be a question of my own voluntary action on the rate question. The other would be what would be forced upon me by the action of my competitors. I would make the rate on the packing-house products and dressed meats higher than the other.

Q. That is the theoretical way in which it ought to be done, where a Traffic Manager is at liberty to carry out his own opinion of what is just and right?

A. That is not only the theoretical way, but the usual way in which it is done if there are no competitive conditions compelling some other action.

Q. In stating in your redirect examination that it is the general rule that commodities should bear different rates in proportion to their ability to pay the varying transportation charge, did you mean that the high priced fat cattle raised in Iowa should be charged a higher rate than the low priced half starved scrawny cattle brought here from Texas?

Mr. COWAN: I object to assuming a condition of affairs that don't exist.

Mr. BAXTER: It is sufficient, I hope for the purposes of illustration.

2022 A. If the two cars were side by side and there was a tremendous marked difference between the two, I should say that theoretically the fat cattle ought to pay more than the other, but it would be impossible to draw the line between the fat cattle and the feeder cattle, because you would never know where that line would come, because as the fat cattle grew leaner and the thin cattle grew fatter, it would be hard to tell where the line would come. However, we have that condition of affairs existing in relation to ores. We make one rate on ores that are valued at $100.00 and a higher rate on ores that are valued higher.

Q. Whether or not the rates are adjusted according to the values of the different products would be dependent upon the fact not alone that they had different values, but upon many other circumstances and conditions that surround their transportation.

A. Oh, yes, most certainly.

Q. Are you aware that it is shown in Appendix G to the Sixteenth Annual Report of the Interstate Commerce Commission, entitled "A Forty Year Review of Changes in Freight Rates," that for sixteen years and seven months out of a total period of twenty three years extending from 1879 to 1902, the rates upon live cattle to Chicago were higher than the rates upon the product of cattle by from five cents to seven and a half cents, and that during about one and one half months of that period the rates on live cattle were from 17 to 20 cents higher than the rates upon the product?

2023 A. I have looked at that exhibit and I find such to be the case.

Q. Are you aware that it is shown by the same appendix that for fifteen years and six months of the same period, the rates on live hogs from Kansas City to Chicago were higher than the rates on their product by from 5 to 11.6 cents per hundred pounds?

A. I have not made the computation as to the difference but I have seen that they are higher.

Q. Are you aware that it is shown by the same appendix that the rates on live cattle from Kansas City, Missouri to St. Louis, were higher than the rates on their product for sixteen years and ten months out of said period of twenty three years, by from 5 cents to 15¼ cents?

A. As I have said in regard to the others, I did not make any computation as to the time or the difference, but I see that the columns in the table show that the rates were higher on the one than the other.

Q. You stated that if you were free to make the relative rates, you would make the rates on packing-house products, say 23½ cents—I mean the rates on cattle 23½ cents and the rates on packing-house products, 28½ and the rates on dressed meat at 33½. Do you recollect that any such relative adjustment of those three sets of rates ever prevailed anywhere in the United States?

2024 A. No. I have an impression, although it is simply a recollection which we get in the natural course of business, that

some years ago the rates on dressed meats particularly were considerably higher than they were on cattle, but the relation, the exact relation I don't know, but I am quite willing to believe that no such adjustment as that was ever made.

There is one thing in connection with this matter that I would like to say. I looked it up to see, this morning, as to the effect of the rates on the movement, and I find that during the period when the Santa Fe Road had a 12 cent rate on cattle from Kansas City in effect, we carried no more than our ordinary proportion of cattle, no more than we did in other years when the rates were higher or were the same by all roads.

We had it in effect for four months and twenty days in the latter part of 1902, but our movement of cattle was not increased thereby nor was the movement from Kansas City to Chicago increased thereby, even by the 12 cent rate.

Q. What are the rates charged by your system now on live stock or cattle and hogs, rather?

A. 20 cents, as I understand it.

Q. And on packing-house products and dressed meats?

A. The same.

2025 Q. So you charge the same on your road on the packing-house products and dressed meat as you charge on the live cattle and hogs?

A. We do.

Q. But you do not put in force this relative adjustment of as 23½ is to 28½ or 33½?

A. Oh, no.

Q. If you are of the opinion and Mr. Ripley is of the opinion, as he expressed it here, that relation of the rates ought to be as you and he have testified, why is it that instead of charging the same rate on packing-house product and cattle and hogs, why don't you establish that relation between the live stock rates and the packing-house rates and dressed meat rates which you believe, both of you, ought to be established?

A. The rates are already too low on the packing-house product and the cattle. To do that would make the cattle rates lower than the dressed meat or the packing-house product rate.

If we could advance the packing-house products and dressed meat rate to that proportion, we would be very glad to do it, and I think, Mr. Ripley would order it so done, but that is impossible because of this contract which exists at the Missouri river, and as long as that contract exists, if we carry any of the product we will have to carry it at that rate.

2026 Just why the Santa Fe puts in 20 cents as against 23½ by the other lines, I don't know. I don't imagine they were any more anxious to obey the order of the Commission than the other lines, and as to why they put it in, I have not been advised. That does not come within my perview.

Q. Something has been said in the case about the relation between the rates on cattle and hogs and their respective products which obtained between Chicago and New York. Was that relation estab-

lished by the voluntary action of the carriers or wa- it established by arbitration?

A. I could not say, I don't know anything about it.

Q. Will you look at the tariffs here handed you, "I. F. C. D., 1081" and state the rates from Chicago to New York on cattle and hogs and packing-house products and dressed meats?

A. I see these rates are named by a rate basis number.

Q. The rate basis number you will find at the head of the tariff.

A. There are some notations opposite. That would show that 18 is the rate on cattle. I assume that to be correct. If so, the rate on cattle from Chicago to New York would be 28 cents. On hogs, it would be 30 cents, on fresh meat 45 cents, and on cured meat, 35 cents per hundred pounds.

The COURT:

2027 Q. What is the latter class?

A. Packing-house product, cured meat; fresh meat 45 cents, packing-house product or cured meat 35 cents, hogs, 30 and cattle, 28.

Mr. BAXTER:

Q. Now, instead of charging the same rate on cattle as on hogs, those eastern lines make a difference in those rates, don't they?

A. 2 cents per hundred pounds.

Q. And instead of charging the same on packing-house products as on dressed meat, they make different rates on those products?

A. They have 7 cents on the packing-house product and 17 cents on the dressed meat. I should say that was not too great a difference.

Q. Nevertheless, it is not the relation between the rates which you and Mr. Ripley have testified would be the relation that you would make, if you could control the situation?

A. Well, I would not like to say that I would make it 23½, 28 and 33½, but I would adjust it somewhat in that general way; that is, have the packing-house rate considerably more than the live stock rate and the dressed meat rate considerably more than the packing-house rate. The exact adjustment I would have to consider very carefully.

Q. After all, isn't the question as to the adjustment of these rates one for the men engaged in the transportation of traffic, in consultation with their customers, to settle as to what those relations

2028 shall be in different parts of the country?

A. Altogether, and possibly no two men would have the same idea.

Examination by Mr. LYNDE:

Q. Did you make that examination that you were asked to make by the court as to other commodities?

A. Not as yet, no, I have not had any time.

Q. When you make that examination I wish you would look to see whether on the Santa Fe Road between Chicago and Kansas

City, your tariffs do not show the following rates on the following commodities. Pig-iron, $3.08 per ton?

A. From where?

Q. Chicago to Kansas City. Rails, $2.00 per ton, rails being the product of pig-iron. Malt, 10 cents per hundred pounds, barley, 15 cents per hundred pounds, malt being the product of barley. Paint, 17 cents per hundred pounds, Linseed-oil, 27 cents per hundred pounds, turpentine, 27 cents per hundred pounds; the oil and the turpentine being the products from which the paint is manufactured. Will you kindly see as to that?

A. I should think that might be so, competitive conditions control in that case.

Q. Undoubtedly, competitive conditions control in the fixing of almost all rates?

2029 A. Yes, but that does not vitiate the principle that the commodity should proceed to a higher rate as it progresses towards the finished product.

Q. It does not affect the principle but it simply goes to show that where competitive conditions exist, some other principle govern or rather, the competitive conditions govern?

A. It is not the principle that governs then, it is the condition.

Q. Then there is another item, too. Shot, 15 cents per hundred pounds and pig-lead, 27 cents per hundred pounds, between the same points.

A. Let me explain that. The rate there in a good many of those cases, the comparison is not fair; for instance, in that last one. Shot is a manufactured product that moves west; pig-lead don't, pig-lead moves the other way, and there is none going west. If there was, probably the rate would be different.

Q. I want to know what the fact is as to your tariff.

A. The same way as to a great many other commodities. If they don't move in a certain direction, they don't pay any attention to the tariff.

Q. The question is as to what the fact is, if you will kindly look at those particular points I will be obliged. You stated that based on the cost of service, the rate on dressed beef and packing-house product was greater than the rate on live stock. Now let me ask you——

2030 A. I don't think I stated that. I don't think I stated that any rate should be based on the cost of the service. I stated positively that it should not be based on the cost of the service.

Q. I think you gave that as your opinion. Nevertheless, I understood you to say as a matter of fact that between Kansas City and Chicago, based on the cost of service, whether it should be so or not, based on that alone, the rate on dressed beef and packing-house products should be greater than the rate on live stock?

A. I should say so.

Q. I want to ask you whether, in arriving at the cost for the purpose of making that basis, you did not charge as against the live stock and against the dressed beef and against the packing-house

products your general average of all rates, in determining the operating expenses and the terminal expenses?

A. I don't think you said what you meant to. You meant the general average of all expenses.

Q. Yes, you are right, that is what I meant. That is, your estimate there was made in the same way that the statement was which you prepared for Mr. Ripley?

A. That was not made that way at all. It is not based on the general average of all expense. It is based upon the average of the expenses on a particular portion of the road over which that traffic travels.

2031 Q. Precisely. I am confining this to Kansas City and Chicago, on that portion of your road, and, without going into the matter any further, I think we all understand the way in which you handle it. You put in one item, all the expense and that you divide by the total number of cars?

A. No, the total number of gross ton miles. The weight that we haul; that is our unit, the gross ton miles.

Q. And your result is the final amount that you arrive at?

A. The weight in the car multiplied by that unit determines the cost.

Q. That is the general average on that particular division?

A. The general average on that particular division.

Q. And your estimate, as I say, as to the cost of service between the live stock on the one hand and the dressed meat on the other, is arrived at in the same way?

A. Yes, based on the general average.

Q. By that method, a car of live stock would stand on the same basis as a car of coal?

A. Exactly.

Q. Now, as to your pick-up business east of Kansas City, does your road have very much of that?

A. Yes, we have considerable live stock through Missouri. It is quite a live stock country. Most of it, I think, however, moves to St. Louis, I think so. I am not in the traffic part of the

2032 business just now.

Q. Mr. Ripley stated, as I understood him, that that was a very small business?

A. I don't know about that.

Examination by Mr. DAWES:

Q. I understand your theory to be that generally the rate upon the product should be higher, generally speaking, than upon the raw material, as a principle. Suppose both the product and the raw material were carried at a rate which failed to produce on either the average amount of expenses, as you testified, and suppose competitive conditions compel you to reduce the rate on the manufactured product. Would you think that it was necessary or desirable to reduce then the rate upon the raw material in order to preserve that uniformity?

A. I should think it would be wholly undesirable for the amount

that we are obliged to take off would necessarily compel some other commodity to pay that extra expense.

Q. So that, as the conclusion of your testimony, I infer that in cases where competitive conditions compel you to make a rate upon the manufactured article which does not bear a proper proportion to its cost, that it is not then desirable or it would be improper and it would not be good business or desirable for any reason, to reduce the other?

2033 A. I would like to put that in the strongest possible terms that it should not under any condition- *to* be reduced for that reason.

Q. So under the conditions that prevail here, is it your opinion that the live stock rate, on the principles which you have enunciated, should be reduced to the rate which we are compelled to put in on packing-house products and dressed meats?

A. I should say that, on the contrary the other ought to be forced up. That is, the rate, as determined by my figures is absolutely unreasonably low.

Q. Assume that you could not force the other up because of controlling competitive conditions?

A. Then I certainly would not reduce the other.

Q. Is there any such relation between the manufactured product in this case and the raw material as should make the rate equal?

A. By no means. It won't make practically any difference if you reduce the rate to 20 cents, there won't be an additional car come to Chicago, not one. The railroads will simply be out 3½ cents per hundred pounds and somebody else will be ahead that amount.

2034 Redirect examination by Mr. COWAN:

Q. If what rate is reduced 3½ cents it won't make any difference?

A. The live stock rate.

Q. Suppose it was reduced 10 cents, would it make any difference?

A. I did not hear that.

Q. Suppose it was reduced 10 cents, would it make any difference?

A. We reduced it 12 cents and it did not. We reduced it 11½ cents and it did not make any difference.

Q. Don't you know that the other roads likewise met your rate for the competitive traffic?

A. I understand that they did not. I do know, or at least I am advised by an official of our road that he went to a large shipper and tried to get him to go into the market and buy the cattle and he said it would be of no use, he would simply lose all the money that he put into it. It would not make a particle of difference in the number of cars that were shipped. We did not get any more then than we did before.

Q. Why wouldn't it make any difference in the price of the cattle? Why couldn't a man afford to buy them, if they are sold cheaper down there, and ship them up here?

A. It is understood that the men in Kansas City go in
2035 and buy what cattle they have to have and they are the same people as a rule in Chicago as in Kansas City, and the

chances are that they would control the market so as to handle it. At least, that was the effect of our reduction and we had it in effect for four months and twenty days and we took it out because it did not have the effect that we thought it would have.

Q. When you say that other roads did not meet your rate, do you know that to be so?

A. I don't know that any other road did. So far as I know no other road did. If they did, they have a published tariff and it can be readily ascertained.

Q. Do you know whether it increased your relative shipment in here during those months?

A. I have examined the re d, and it don't appear to have done so.

Q. It don't appear to have increased then, compared with what period?

A. Corresponding periods of the year before and the year after, particularly the year after. We had more the year after than we did that year.

Q. Is it not a fact that at that time, when you had that rate in there were such conditions existing at Kansas City, that for a month at least prevented you from handling the traffic?

A. 1902?

Q. Yes, when did you have that great flood there?

2036 A. That was in June. This rate went into effect August 11th, 1902. That did not affect the road east of Kansas City very much.

Q. Did it affect the roads west, bringing them in?

A. Yes, but these shipments were out of the Kansas City stock yards.

Q. Isn't it a fact that your rates to Chicago from points west of Kansas City were not in fact changed when you made a 12½ cent rate, local rate, from Kansas City?

A. I don't know.

Q. If you wanted to ship from some point in Kansas or Texas to Chicago, you would pay just exactly the same as if that 12½ cent rate was not in there?

A. I presume so, that is what ought to have been done.

Q. Is not it a fact that practically nothing originates at Kansas City that does not come in there from elsewhere, for shipment on the local rate?

A. Perhaps that is the reason that none came out at 12 cents.

Q. Isn't it a fact that stations located on your line would simply ship stock or cattle to the amount they had to market anyhow—the amount they would ship for example, from Carrollton or many other stations on your line would simply depend on the number

2037 of cattle there were to be shipped and not on the rate you made for it.

A. I guess that is so.

Q. So it would not change the amount of your shipments, it would not induce the shipper to drive them from other roads to yours because the distance would be too great. Isn't it a fact that you do

make a difference in the rate on the fat cattle and on the poor cattle wherever the circumstances are such that you can determine that it is one or the other class?

A. Where they are going for feeders or range cattle, where the destination is such, that is a fact.

Q. You ship cattle out from Kansas City which are bought as feeders, to feed lots for three quarters of the fat cattle rate?

A. That goes west, sometimes east, I think.

Q. How many cars of live stock did your company handle, approximately, in the year for which you made the figures? You gave the tonnage but about how many cars would that amount to, the tonnage of the live stock shipments.

Mr. SEVERANCE: Is this redirect examination?

The COURT: It don't seem to me it is. This ought to be redirect.

Mr. COWAN: They asked for tonnage and I am asking for the number of cars. [illegible] asked him to make a statement
2038 of the total amount h[illegible]ved.

The COURT: I sus[illegible]he objection.

Mr. COWAN:

Q. Isn't it a fact that the cost of delivering the live stock at Chicago, contained in the statement which you made for the Interstate Commerce Commission was $1.78 per carload?

Mr. SEVERANCE: I object to that as not redirect. It is cross-examination of his own witness.

The COURT: The same ruling on the ground stated.

Mr. COWAN:

Q. Isn't it a fact that in your statements which you made to the Interstate Commerce Commission in regard to the expense at Kansas City of live stock, that you placed it at $2.40 a car for the year stated?

Mr. SEVERANCE: The same objection.

The COURT: The same ruling.

Mr. COWAN:

Q. In order to know the value of the figures you have given with respect to the cost of the gross ton mile, is it not necessary to have a statement of the amount of expenditures on that part of the road, into which you divide the gross ton mileage, to determine?

Mr. SEVERANCE: The same objection.

A. Yes, sir.

2039 The COURT: Well, he has answered that, he said, yes.

A. I stated that.

Mr. COWAN:

Q. You have a copy of your statement, haven't you, to that effect?

A. Yes.

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Q. You have a copy of your figures?

A. I have at the office. I have the figures on which they are made up. It would make a pile as big as this desk.

Q. You remember of making for the Interstate Commerce Commission, a statement showing the expenditures upon the road, into which you divided the gross ton miles?

A. That is made all during the year as every voucher comes in. It is distributed on every voucher.

Q. You made it up for the Commission. Have you copies of those statements?

A. You mean this printed sheet?

Q. No, it was type-written, just two or three type-written sheets.

Mr. SEVERANCE: I object to that as immaterial.

The COURT: Objection sustained.

Mr. COWAN: I can explain [illegible] it is very material, but, if it is excluded on the ground th[illegible]id not ask it before or ask in regard to it, that is a different [illegible]ition.

The COURT: If you wa[illegible] put in any statements, ask
2040 him to bring them so that [illegible]nsel can examine and cross-examine.

Mr. COWAN: Well, I will ask him off the stand.

Q. Is it not a fact that the volume of traffic moved over any line would affect the average cost per gross ton mile.

Mr. SEVERANCE: That is not redirect.

The COURT: I think you have been over that, Mr. Cowan, the objection is sustained.

Mr. COWAN:

Q. Have you examined the records to ascertain the number of live stock which were in fact brought in by the Santa Fe during that period of 1901, as compared with 1902, the total shipments per year?

A. I have the reports of 1901, 1902, and 1903 of the Chicago Live stock, right here. I glanced at them this morning. They speak for themselves of course, they are a printed document.

Q. There is filed before the Interstate Commerce Commission in a case, by Mr. Bird, the following statement which I want you to ascertain whether it is correct or not. From August 15th to 31st, 1901, shipments via the Santa Fe from Kansas City, Leavenworth, Atchison, St. Joseph, to Chicago of live stock 13,267, for cattle for 1901.

A. What dates?

Q. August 15th to 31st. For 1902, 20,417. For September you shipped in 27,656 head; in 1901. In 1902, the same month, 34,259 head.

2041 A. Is that cattle or live stock?

Q. Probably that is the number of live stock. I do not know whether it is live stock or cattle, but I want you to verify these figures.

October, 21,281 head, for 1901 as against 35,785 head for 1902;

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November 8,966 head for 1901 against 14,724 head for 1902; December 1st to 21st, 7,147 head for 1901 against 8,129 head for 1902. The total for that period, for 1901, 78,317, for 1902 113,314. I would like for you to verify that and see if you dispute that fact.

Mr. LYNDE: Let me see that. (Referring to transcript from which counsel has been reading.)

The WITNESS: That is the movement from the Missouri river points?

Mr. COWAN: Kansas City, Leavenworth, Atchison and St. Joseph.

Mr. DAWES: I object to the information in that form. If it is competent for Mr. Cowan to prove that fact, then it would be proper, I think to ask the witness about it. As I understand it now he wants to know if Mr. Bird did not say certain things in some other case before the Interstate Commerce Commission, and will the witness be kind enough to state whether he agrees with Mr. Bird. That cannot be of any value here.

The COURT: I understand that he wants the witness to
2042 hunt up the facts as he stated them. If he can do that it is all right.

Mr. DAWES: If he asks him what the figures are for those particular periods. I don't think Mr. Bird's testimony has anything to do with it.

The COURT: What you want him to do is to state the fact.

Mr. COWAN: Whether he disputes the proposition stated in those figures.

The COURT: That objection is sustained. The witness will simply bring a statement here for counsel to examine and cross examine about.

Mr. COWAN: (Addressing the witness) Well, then, you ascertain the facts.

The WITNESS: Is that for the period while this 12 cent rate was in operation, from August 11th to December 31st?

Mr. COWAN: August 15th to December 31st.

Mr. DAWES: Have you got the figures there?

A. No, not from the Missouri River points alone. I do not know that we have them segregated. It may take quite a good deal of work to make them up.

The COURT: Anything else with this witness, gentlemen?

Mr. LYNDE: When you make up that statement——

Mr. COWAN: There are a number of other questions I would like to ask the witness, but as I understand the ruling of the
2043 court, this is to be considered re-direct examination, and I don't want to trespass upon the ruling of the court.

Mr. LYNDE: When you make that statement, include the movement of all live stock between those periods as well.

The COURT: Can you remember all of that? If you cannot remember it the reporter will write it out for you.

The WITNESS: Yes, if he will do that.

Mr. COWAN:

Q. Did you bring the statement in regard to the loss and damage claims that I requested yesterday?

A. Our auditor says that he did not make any such statement. To compile that statement would take, I should say it would take four or five men a month.

Q. Well, I have telegraphed to Washington for it, and will get it that way.

A. I think possibly you are referring to some statement that was made by the auditor of the G. C. & S. F., who was present in that case. I don't think that Mr. Bailey was there at all. Mr. Bailey says that he did not make any such statement.

Q. Well, the statement, "I have telegraphed for it." Did you get the statement with respect to the loss and damage claims in respect to the packing house product and dressed beef?

A. I am having it made. It will take some time to make it up. We have not any separate statement of that, but it is being

2044 made up now.

Q. Mr. Peabody, is it not a fact that the year 1903 for which you made your statement, on the Santa Fe, was one of abnormal expenditure in the matter of maintenance of way and structures and maintenance of equipment, as operating expenses, into which you divided your gross ton mileage?

Mr. SEVERANCE: Is that the statement that Mr. Baxter interrogated him about?

Mr. COWAN: Yes.

The WITNESS: I think not. We had more expense on some divisions, expenses that were heavier than normal. We had expenses on other divisions less than normal. I think the expenses shown in 1903 for the various roads over which the cattle travelled would not average more than what we consider the normal expenses for maintenance. The figures in this case, however, are based on those for 1905 and not for 1903.

Q. You mean the figures testified to by Mr. Ripley?

A. Yes sir.

Q. Isn't it a fact that upon grain moved from Kansas City to Galveston, for export and moved from Kansas City to Chicago on the basis of the proportional rate for export; on lumber moved from the Louisiana and Texas lumber fields to the Missouri River points and to Chicago; on all Pacific Coast traffic, estimated on the

2045 basis of your figures, that they would show a greater loss and a greater deficit than the live stock or packing house products or dressed meat?

A. I cannot answer as to the lumber. I have not figured it. I think there are some of those lumber rates that are even more foolish than the live stock rates.

Q. What about the grain?

A. For instance, we carry lumber from that Beaumont Territory, clear around into Indiana. I think the man ought to be discharged that made a rate of that sort.

Q. 26 cents per hundred pounds to Chicago territory from Beaumont, isn't it?

A. So far as the Pacific Coast is concerned, I have made figures on that lately. They are very much higher.

Q. What Pacific Coast traffic do you refer to?

A. All of it; particularly on citrus fruit.

Q. What is your rate on citrus fruit?

A. $1.25.

Q. $1.25 per hundred pounds from Los Angeles to Chicago?

A. Yes sir.

Q. And that rate extends to Buffalo.

A. It extends from the Missouri River to the sea board.

Q. $1.25 for all territory between the Missouri River and the sea board?

A. Yes sir.

Q. $1.00 to the Missouri River?

A. No, I think it is $1.25 to the Missouri River. $1.00 on
2046 lemons from the same territory during certain periods of the year. That is a competitive proposition again.

Q. Have you made a computation on grain between Kansas City and this place on the basis of 11¼?

A. No sir.

Q. Have you made the computation on the basis of 15 from Galveston to New Orleans?

A. No sir, so far as Kansas City is concerned it is very easy for you to figure it. You have got the rate per ton mile between Kansas City and Chicago, and you can tell in a minute whether it is more or less profitable.

Q. The basis of your average cost here does not give any allowance for the fact that you are moving a given traffic a long distance, does it?

A. It is based on the ton mile. The more miles, the more it costs.

Q. You are basing it upon the same elements of cost whether it is moved 100 miles or 1000 miles?

A. The same elements of cost on the various divisions where it is moved. It won't be the same cost on any two divisions.

Q. Well, the same factors?

A. The same factors enter into it.

Q. You made a statement yesterday in answer to Judge Baxter that in carrying live stock traffic there was a lighter train loaded. Would you be able to determine that unless you took your
2047 actual train consists and ascertain therefrom what the relative train load is as between those trains which carry live stock and those trains which do not?

A. Not definitely, no sir. My general impression—I am getting those in my office all the time, the actual loading of every train on the road comes to my office on a separate sheet, and of course, I see them as they go in, more or less; not all of them, to be sure.

Q. Is it not a fact that there was filed a statement of the kind I asked you about yesterday, of the consists of trains out of Gainesville, that that was filed in that case?

Mr. SEVERANCE: I object to that as immaterial.

A. I made up such a statement.

The COURT: Objection sustained.

Mr. COWAN:

Q. Didn't that statement show the number of loaded cars per train in which the live stock was carried for the period given, and then the trains which did not carry live stock?

Mr. DAWES: I object to that.

The COURT: Objection sustained. I don't know whether it makes much difference what he showed then.

Mr. COWAN: I will ask you to please let us have the annual report for 1904 and 1905. There is one of 1903 already here.

2048 Mr. LYNDE: You have got one for 1905.

Mr. SEVERANCE: The reporter identified it.

Mr. COWAN: I know he did, the one I gave him.

The COURT: Anything else with this witness?

Mr. SEVERANCE: There was a young gentleman on the stand here two days ago, whose modesty, I believe, was complimented by the court, who seems to have gone to the extent of effacing himself. He represented Schwarzschild & Sulzberger, and was told to come back here yesterday morning with a table of figures, concerning which he could be examined, concerning some very extraordinary statements which he made in reference to claims. I have not seen him in court since then, and I would like to inquire when it is proposed to bring this witness back?

Mr. COWAN: He has reported that he could not get the statements finished until to-morrow morning, and will be in with them at that time.

EXHIBITS

NOT

SUITABLE

FOR

MICRO-

FILMING

JAMES V. MAHONEY, called as a witness on behalf of the complainant in rebuttal, having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. State your place of residence?

A. I reside in Chicago.

2049 Q. Are you chairman of the Western Trunk Line Committee?

A. Yes sir.

Q. An organization of various lines of railroads leading from here westward?

A. Yes sir.

Q. Do you keep the statistics showing the traffic and the movement of the traffic and the revenue of the traffic from Missouri River points, which passes through the Mississippi River gateways, on all the lines of railroad which operate between those two rivers?

A. I think we do, yes sir.

Q. That is a part of the work of the Western Trunk Line Committee?

A. Yes sir.

Q. Have you prepared, at request, in this case, certain statements showing the tonnage and revenue on live stock and on packing house products and dressed meat, on classified freight, which moves from the Missouri River eastward through the Mississippi River gateways for certain years, 1902, 1903, and 1904?

A. Yes sir.

Q. Will you please produce those statements and simply explain what they are, and file them as exhibits to your testimony?

A. The first statement on the memorandum sent me in connection with this summons reads, "Statement of total revenue of live

2050 stock, fresh meat and packing house product. From Kansas City, Atchison, Leavenworth and St. Joseph, east-bound, for the years ending December 31st, 1902, 1903 and 1904." I have prepared that statement, which is herewith submitted, and I have marked it "Exhibit No. 1."

Mr. BAXTER: Will you read the caption of it?

A. The caption of the statement is, "Movement of fresh meat, packing house products and live stock from Kansas City, Atchison, Leavenworth and St. Joseph, east-bound for years ending December 31st, 1902, 1903, and 1904. Weight in tons." This shows the amount for each road named, the Santa Fe, the Rock Island, the C. B. & Q., the Chicago Great Western, the Chicago, Milwaukee & St. Paul, the Chicago & Alton, the Kansas City Southern, the

M. K. & T., the Missouri Pacific, the Frisco and the Wabash. I have called some of the roads by their short names. That is Exhibit No. 1.

(The said Exhibit so produced by the witness, and above identified is hereto attached).

(Here follows Exhibit No. 1 marked p. 2053*a*.)

EXHIBIT No 1

MOVEMENT OF FRESH MEAT, PACKING HOUSE PRODUCTS AND LIVE STOCK FROM KANSAS CITY, ATCHISON, LEAVENWORTH AND ST JOSEPH,- EASTBOUND

FOR YEARS ENDING DECEMBER 31ST, 1902,- 1903 AND 1904

2053a

WEIGHT IN TONS

FRESH MEAT

YEAR	A.T. & S.F. Ry.		C. & A. Ry.		C. B. & Q. Ry.		C. G. W. Ry.		C. M. & St. P. Ry.		C. R. I. & P. Ry.		K. C. Sou. Ry.		M. K. & T. Ry.		Mo. Pac. Ry.		Q. O. M. C. RR.		St. L. & S. F. R. R.		Wabash R.R.		TOTAL, ALL ROADS	
	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue
1902	31766	[illegible]	63751	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	87	327			177	6555			[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1903	38327	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	400	1479			2711	100505			2119	7846	963	17625	[illegible]	[illegible]
1904	45709	953[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	8534	31583	236	8355	23	849	2730	105516	76		[illegible]	81692	410	15746	[illegible]	[illegible]

PACKING HOUSE PRODUCTS

1902	9305	[illegible]	19604	72650	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	637	2363	1846	6933	15111	555900	754	27844	[illegible]	[illegible]	19071	70035	[illegible]	[illegible]
1903	14746	[illegible]	17350	64312	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2100	7765	341	12622	19551	723721	109	4053	[illegible]	[illegible]	17916	47757	[illegible]	[illegible]
1904	19012	703500	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	3075	11380	304	11279	18584	687600	99	368	[illegible]	[illegible]	15096	[illegible]	[illegible]	[illegible]

LIVE STOCK

1902	32763	[illegible]	33971	[illegible]	[illegible]	[illegible]	1763	6667	1582	[illegible]	[illegible]	[illegible]	7	457	10	605	15481	[illegible]	33	97	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1903	36911	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	836	3281	7381	[illegible]	[illegible]	[illegible]			244	741	9515	[illegible]	117	3037	8137	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1904	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	948	3112	[illegible]	[illegible]	[illegible]	[illegible]	11	605	106	312	[illegible]	[illegible]			[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

EXHIBIT No 2

2053 B

MOVEMENT OF FRESH MEAT. PACKING HOUSE PRODUCTS AND LIVE STOCK.

FROM OMAHA, SO. OMAHA COUNCIL BLUFFS, NEBRASKA CITY & OTHER NEBRASKA POINTS, - EASTBOUND

FOR YEARS ENDING DECEMBER 31ST, 1902, 1903 AND 1904

WEIGHT IN TONS

FRESH MEAT

YEAR	Burlington		C. G. W. Ry		C. M. & St. P. Ry		C. R. I. & P. Ry		C. & N. W. Ry		Ill. Cent. R.R.		Mo. Pac. Ry		Wabash R.R.		Total, All Lines	
	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue
1902	41833	154785 64			45711	169134 84	29376	108680 25	64682	239315 84	6852	25480 28	12	46 06	448	1658 04	188944	699100 90
1903	36952	136716 55	2018	7464 76	53015	196177 80	10808	39990 02	111618	412993 16	21141	78210 22	227	844 34	2266	8388 07	238040	880984 92
1904	33715	124726 30	40491	149821 52	33430	123691 26	42204	156150 11	48488	179416 49	13875	51332 77	406	1504 16	1729	6400 73	214338	793043 34

PACKING HOUSE PRODUCTS

1902	44581	166072 05			27335	101131 37	12672	36885 88	17182	63574 45	13067	48359 61	16127	59658 98	14870	55022 30	146134	540704 14
1903	45279	167536 85	1113	4119 82	47774	176770 90	11168	41367 43	28153	104165 35	31063	114934 99	10325	38191 88	10696	39564 52	185571	686652 04
1904	43186	159825 86	27044	100069 52	29251	108235 74	7338	27148 58	12326	45605 45	18129	67083 30	12767	47243 19	10372	38387 14	160413	593598 78

LIVE STOCK

1902	23620	92848 51			3655	14137 24	6766	25006 89	8758	33328 31	2985	12335 35	707	2771 90	2708	10012 75	49199	190440 95
1903	20284	82509 29	15	6050	5074	19243 39	5071	18894 84	12610	48838 87	3091	14496 93	664	3502 40	2675	12088 70	49484	199624 92
1904	24560	94800 06	1203	5038 64	9055	33554 89	14121	52134 52	17428	65104 20	3863	16614 91	647	3418 80	4800	22831 91	75677	292527 93

NOTE:- Movement from Omaha, So. Omaha, Council Bluffs & Nebraska City not shown separately during 1902 and 1903

Movement from Omaha So. Omaha, Council Bluffs & Nebraska City not shown separately for period from Jan'y 1st to March 31st, 1904

From Jan. 1st 1902 to July 31st 1903 the C. & N. W. Ry includes traffic only from Omaha, So. Omaha, Council Bluffs and U. P. Transfer.

C. G. W. Ry includes traffic only from Sept. 1st. 1903.

The next exhibit mentioned was a statement of the tonnage and revenue of live stock and packing house products from Nebraska City, Omaha, the Omaha Groups, east-bound, for the years ending December 31, 1902, 1903 and 1904. I have prepared such a statement, which is marked Exhibit No. 2.

Mr. BAXTER: Read the heading of that.

2051 A. "Movement of fresh meat, packing house products and live stock from Omaha, South Omaha, Council Bluffs, Nebraska City and other Nebraska point-, east-bound for years ending December 31st, 1902, 1903 and 1904."

(The said statement so produced by the witness is marked Exhibit No. 2, and attached hereto).

(Here follows Exhibit No. 2 marked p. 2053*b*.)

Exhibit No. 3, the memorandum reads, "Statement of tonnage and revenue of live stock, fresh meat and packing house products from St. Paul Group points, east-bound, for the years ending December 31st, 1902, 1903, 1904."

I have prepared a statement which I have marked Exhibit No. 3, the caption of which reads as follows; "Movement of fresh meat, packing house products, and live stock from St. Paul Group points, east-bound, for years ending December 31st, 1902, 1903 and 1904, weight in tons."

(The statement so produced by the witness is marked "Exhibit No. 3," and is attached hereto).

(Here follows Exhibit No. 3 marked p. 2053*c*.)

EXHIBIT No 3

2053 C

MOVEMENT OF FRESH MEAT, PACKING HOUSE PRODUCTS AND LIVE STOCK FROM ST. PAUL GROUP POINTS,- EASTBOUND

FOR YEARS ENDING DECEMBER 31ST,- 1902, 1903 AND 1904

WEIGHT IN TONS

FRESH MEAT

YEAR	C. B. & Q. Ry		C. G. W. Ry		C. M. & St. P. Ry		C. R. I. & P. Ry		C. St. P. M. & O. Ry		M. St. P. & S. S. M. Ry		M. & St. L. R. R.		Wis. Cent. Ry		TOTAL, ALL ROADS	
	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue	Tons	Revenue
1902	679	2715 88			2647	10586 04			3359	13444 26	315	1262 10	222	888 08	1651	6598 21	8873	35494 57
1903	1054	3689 32	2024	6884 14	5417	19050 41			3187	11519 19	214	783 31	78	264 30	49	166 38	12025	42357 05
1904	886	3013 16	1355	4609 98	12869	43729 31			3514	11939 61	309	1049 37	32	111 55	289	984 03	19254	65437 01

PACKING HOUSE PRODUCTS

1902	497	1835 73	346	1278 69	5624	20826 55			2442	9043 83	9109	33690 84	5936	21981 13	10154	37566 33	34108	126223 10
1903	426	1348 72	681	2169 81	8261	27089 62	243	767 61	5915	18873 95	13280	43498 54	4821	15598 13	3903	13088 02	37530	122434 40
1904	956	3007 48	2196	6890 29	10570	34468 16	601	1886 96	6939	21779 56	13959	43823 99	8423	26456 01	8842	28218 63	52496	166531 08

LIVE STOCK

1902	2207	11656 15	230	1241 65	6927	36737 62			3635	19442 20	33	210 10	53	305 00	43	242 50	13130	69835 12
1903	1075	5622 27	657	3590 98	8231	43977 25	142	751 50	1093	5488 13	38	199 10	238	1222 90	203	1175 80	11677	62027 93
1904	48992	246669 05	22030	110107 87	39192	200142 73	3364	17014 10	16459	83594 86	155	865 06	560	2875 20	3102	16771 95	133854	678040 81

EXHIBIT No 4

SIOUX CITY

EAST AND WESTBOUND

CLASSIFIED STATEMENT OF TONNAGE AND REVENUE ON TRAFFIC TO AND FROM SIOUX CITY, IOWA, DURING THE YE

WESTBOUND

WEIGHT IN TONS

LINES	First Class	Second Class	Third Class	Fourth Class	Fifth Class	Class A	Class B	Class C	Class D	Class E	Agricultural Implements		Apples		Beer	Brick and Fire Clay		Canned Goods	Cement	Coal: Hard	Coal: Soft	Coke	Furniture	Glucose, Molasses and Syrup	Grapes	Iron and Steel Articles	Lemons, Oranges and Bananas	Lime, Plaster and Stucco	Oil				Salt		
1. C. M. & St. P. Ry	9460	1630	3336	3578	4401	405	153	972	716	1311	1918		27		2133	95		1396	1550	4070	4733	1494	62	532	170	105	65	31	1397				31		201	
2. C. & N.-W. Ry	1780	344	2343	2532	4344	395	223	744	243	804	3039		112		584	602		1113	548	1306	3342	1430	587	531	139	77	69	53	3657						1701	
3. Illinois Central R. R.	1032	413	821	1040	1314	165	65	379	247		570		42		53			574	396	633	11401	396	12	31	143	12	1744		3106						3419	
TOTALS.	12272	2387	6396	7078	10063	965	441	2100	1336	2115	5532		181		2770	697		2493	2394	5769	19473	3318	1553	2101	452	194	1870	91	6160				31		4870	

EASTBOUND

LINES	First Class	Second Class	Third Class	Fourth Class	Sugar, Syrup, Molasses, Packages		Grain	Hay, Straw		Live Stock	Meats, Fresh	Packing House Products	Rags and Junk	Scrap, all kinds		Petroleum, Gas, Coke			Mineral Waters	TOTALS: Tons	TOTALS: Per Cent	TOTALS: Revenue	
C. M. & St. P. Ry	103	390	133	123	995		196	4667		3021	9306	17063	131	1579		15			1909	39911	40	17395	
C. & N.-W. Ry	127	470	4063	333	630			85		3531	14330	21992	68	1371					643	46526	47	22466	
Illinois Central R. R.	66	72	362	57	1311		318	1657		127	10	4796		55			12	32	405	12357	13	5641	
TOTALS.	296	932	4558	513	3013		314	6409		5709	23646	43851	199	3005		15	12	32	2957	98835	100	43502	

OF TONNAGE AND REVENUE ON TRAFFIC TO AND FROM SIOUX CITY, IOWA, DURING THE YEAR 1902.

Mahoney & Long R053.01

WEIGHT IN TONS

Apples		Beer	Brick and Fire Clay		Canned Goods	Cement	Coal Hard	Coal Soft	Coke	Dried Fruit	Flour, Mill'gs and Grain	Grapes	Iron and Steel Articles	Lemons, Oranges and Bananas	Lime, Plaster and Stucco	Oil				Rails and R. R. Iron		Salt		Sugar	Tie Plate	Vehicles	Wire and Nails	Glass	RR Light
37		2133	35		1906	1550	4070	4933	1494	62	1572	170	105	65	31	1397				31		721		626	30	1018	1596	206	
112		594	602		1113	548	1306	2342	1430	577	531	139	77	69	53	2657						1701		472		312	2497		30
22		158			174	330	633	1401	396	12	38	143	12	1744		3102						2414		6101		194	319		
171		2881	637		3493	2349	5709	8693	3318	1653	2101	452	194	1878	84	6160				31		4890		6921	30	1534	4912	402	30

Miscellaneous	TOTALS Tons	Per Cent	Revenue	Per Cent	
4898	54403	43	303 816	42	1
1669	36633	29	210681	31	1
941	33382	26	163932	24	1
7488	124418	100	677429	100	

WESTBOUND

TOTALS

EASTBOUND

Second Class	Third Class	Fourth Class	Brick, Brick and Fire Clay, Tiling		Grain	Grain Products	Hay	Live Stock	Meats, Fresh	Packing House Products	Rags and Junk	Scrap, all kinds		Petroleum	Coke, Slack	
391	133	183	995		176	1667		3021	9206	17903	131	1529			15	
470	4063	339	630			83		2521	10320	21992	61	1378				
72	367	57	1311		308	1651		187	80	9796		55			12	32
933	4563	582	3013		314	6401		5709	33686	49181	199	3902			15	12	32

Miscellaneous	TOTALS Tons	Per Cent	Revenue	Per Cent	LINES
1909	39911	20	137395	29	C. M. & St. P. R'y
643	16582	9	92462	19	C. & N.-W. R'y
405	12357	6	53671	10	Illinois Central R. R.
2957	68850	35	483928	58	TOTALS

CLASSIFIED STATEMENT OF TONNAGE AND REVENUE ON TRAFFIC TO AND FROM SIOUX CITY, IOWA, DURING THE

WESTBOUND

WEIGHT IN TONS

LINES	First Class	Second Class	Third Class	Fourth Class	Fifth Class	Class A	Class B	Class C	Class D	Class E	Agricultural Implements, Vehicles and Machinery	Alcoholic Liquors and Tobacco	Anthracite Coal	Bituminous Coal	Brick and Fire Clay	Cement, Lime and Plaster	Coal	Coke	Petroleum and Its Products	Glucose and Grape Sugar	Iron and Steel Articles	Lumber and Other Forest Products	Hides and Leather	Ores	Paper, Printed Matter and Books	Pig Iron	Pipe		Salt	Sand, Stone and Other Quarry Products	Sugar
																	Coal	Coke									Cast	Weight			
C. B. & N. W. Ry	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
C. & S. W. Ry	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Illinois Central R. R.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
TOTALS.	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3

EASTBOUND

LINES	First Class	Second Class	Third Class	Fourth Class	Agricultural Implements, Vehicles and Machinery	Alcoholic Liquors and Tobacco	Cereals	Coal, Anthracite	Hay	Live Stock	Manufactured Iron and Steel	Packing House Products	Sugar and Syrup	Sugar, Salt and Glucose	Wool	TOTALS			
																Miscellaneous	Tons	Per Cent.	Revenue
C. B. & N. W. Ry	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
C. & S. W. Ry	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Illinois Central R. R.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
TOTALS.	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3

8053 e

...OF TONNAGE AND REVENUE ON TRAFFIC TO AND FROM SIOUX CITY, IOWA, DURING THE ... YEAR 1903

WESTBOUND

WEIGHT IN TONS

Articles		Beer					Cement	Coal		Coke	Fresh Fruit	Furniture and Fixtures	Grain	Hay	Lime, Plaster and Cement	Oil	Paper, Rags and Waste	Pig Iron	Pipe		Salt	Sugar	Tin Plate	Tobacco	Wire and Rods
								Hard	Soft										Cast	Wrought					

EASTBOUND

Articles		Beer					Cement	Coal		Coke	Fresh Fruit	Furniture and Fixtures	Grain	Hay	Lime, Plaster and Cement	Oil	Paper, Rags and Waste	Pig Iron	Pipe		Salt	Sugar	Tin Plate	Tobacco	Wire and Rods
								Hard	Soft										Cast	Wrought					

TOTALS

Classification	Tons	Per Cent	Revenue	Per Cent

LINES

C. R. G. W. P. R'y

C. & N.-W. R'y

Illinois Central R. R.

TOTALS

CLASSIFIED STATEMENT OF TONNAGE AND REVENUE ON TRAFFIC TO AND FROM SIOUX CITY, IOWA, DURING THE

WESTBOUND

WEIGHT IN TONS

LINES	First Class	Second Class	Third Class	Fourth Class	Fifth Class	Class A	Class B	Class C	Class D	Class E	Agricultural Implements	Alcohol, Spirits and Whiskey	Apples	Hops and Hop-ging	Beer	Brick and Fire Clay	Box Lumber, Hoops, Staves, &c.	Canned Goods	Cement	Coal. Hard	Coal. Soft	Coke	Furniture	Glucose, Molasses and Syrup	Grapes	Iron and Steel Articles	Lemons, Oranges and Bananas	Lime, Plaster and Stucco	Oil	Paper, Building, Print, Wrapp'g	Pig Iron	Pipe. Cast	Pipe. Wrought	Rails and R. R. Iron
1. C. M. & St. P. R'y	6488	1600	2816	3340	4160	849	339	1164	972	1007	1389	70	1038		1604	969	791	955	2362	487	7926	1419	763	650	186	586	37	170	1446	2165		46	784	121
2. C. & N.-W. R'y	165	166	2317	2793	2817	704	145	460	926	519	1330	18	1084	33	378	331	1791	679	4852	530	3443	2700	277	1731	106	430	39	27	2136	698		601	373	
3. Illinois Central R. R.	106	619	999	1037	1096	386	194	315	169		475	15	371		71	18	386	146	371	1324	5483	146	142	21	37		1624	55	2314	144	60	196		
TOTALS.	6759	3385	5760	6970	8073	1939	608	1939	1437	1526	3094	103	2493	33	2333	1325	2864	1779	8715	1540	17501	3765	1294	1902	329	936	1685	94	3796	3007	60	773	1857	121

EASTBOUND

LINES	First Class	Second Class	Third Class	Fourth Class	Bones, Hoofs, Horns, Fertilizer, Tankage	Butter, Eggs and Dressed Poultry	Grain	Grain Products	Hay	Live Stock	Meats, Fresh	Packing House Products	Rags and Junk	Scrap, all kinds	Miscel. Inbound	Miscel. Outbound
C. M. & St. P. R'y	118	370	80	373	1047	2039	1827	1110	20	1313	1888	1457	108	247	1032	1491
C. & N.-W. R'y	143	559	231	277	462	1207	45	1535		4072	1036	822	30	146	338	205
Illinois Central R. R.	127	115	22	54	702	126	27	97	38	678	379	246	60	20	205	104
TOTALS.	388	1354	533	704	2211	3372	1963	2742	58	6063	3303	2525	198	413	1575	800

2053f

NT OF TONNAGE AND REVENUE ON TRAFFIC TO AND FROM SIOUX CITY, IOWA, DURING THE YEAR 1904

WEIGHT IN TONS

WESTBOUND

Alcohol, Bitters and Whiskey	Apples	Beer and Bar-ging	Beer	Brick and Fire Clay	Box Lumber, Hoops, Staves, &c.	Canned Goods	Cement	Coal. Hard	Coal. Soft	Coke	Furniture	Glucose, Molasses and Syrup	Grapes	Iron and Steel Articles	Lemons, Oranges and Bananas	Lime, Plaster and Stucco	Oil	Paper, Rolled'g, Print, Wrapp'g	Pig Iron	Pipe. Cast	Pipe. Wrought	Rails and R. R. Iron	R. R. Material and Supplies	Salt	Sash, Doors and Blinds	Soda, Ash, Caustic, Nitrate and Bicarb. and Sulphate	Sugar	Tin Plate	Vehicles	Wire and Nails	Miscellaneous	Tons	Per Cent	Revenue	Per Cent
																																2580	60 774	46	303 963	2644	9
	70	1031		1604	969	791	955	2362	1627	7926	1419	763	650	186	526	25	172	1446	2165		46	784	121		2640	768	358	2035	130	413	1025		653	46 525	33	229 731	2733	9
	18	1084	33	385	230	791	675	962	5301	3412	2700	377	1731	146	430	39	27	2136	698		601	373		29	2332		19	1781		183	2990		436	26 615	26	183 679	902	2
	15	371		71	18	326	146	371	1226	5883	146	142	21	37		1624	55	2214	144	40	126				1111	15	48	6179		107	412							
	103	2493	33	2983	1725	7864	1779	3715	14090	17501	3765	1276	1942	369	936	1685	94	5796	3007	40	773	1057	121	29	6073	783	417	9492	130	703	4937		3669	132 144	100	677 3745	1	100

EASTBOUND

First Class	Second Class	Third Class	Fourth Class	Bones, Hoofs, Horns, Fertilizer, Tankage	Butter, Eggs and Dressed Poultry	Grain	Grain Products	Hay	Live Stock	Meats, Fresh	Packing House Products	Rags and Junk	Sewer. all kinds	Miscellaneous	Tons	Per Cent	Revenue	Per Cent	LINES
														1032	49127	55	247 932	43	C. M. & St. P. Ry
														338	26073	32	173 894	46	C. & N.-W. Ry
														205	10990	12	44249	11	Illinois Central R. R.
	318	1904	533	704	2346	4392	1963	3742	8717	8313	3313	3146	191	1625	86790	100	386 036	100	TOTALS

The next statement on the memorandum reads, "Statement of tonnage and revenue of fresh meat, and packing house products from Chicago north-bound to St. Paul for the years ending December 31st, 1901, 1902, 1903, and 1904. I have not prepared that, for we do not keep the statistics covering the movement of tonnage on this account north-bound.

Mr. COWAN: Why?

2052 A. It is so very light that we don't keep that separately from other traffic, and where we have any of these items mentioned, we throw them into what we call "Miscellaneous," because of their being a very small amount, so I have not any statement of that.

The next is a statement of tonnage and revenue of classified freight and commodities between the Missouri River markets, namely Kansas City, St. Joe, Atchison, Leavenworth, and Sioux City on the one hand, and the Mississippi River crossings on the other. Also a similar statement including the same traffic between the Mississippi River points on the one hand and Chicago; these two latter statements to show separately the tonnage and revenue on the east-bound shipments on one sheet or set of sheets, and the tonnage and revenue on the west bound to be shown on another sheet of set of sheets.

I have prepared a separate statement of Sioux City, and it is not included in the statements from other Missouri River points. It covers the same information asked for; it shows the movement east and west bound for the period stated of the other freight carried. We keep two separate accounts, well, we keep a separate account with Sioux City from the other Missouri River points. That I have marked Exhibit No. 4.

Mr. BAXTER: Will you read the heading of that?

2053 A. "Classified statement of tonnage and revenue on traffic to and from Sioux City, Iowa, during the year 1902, 1903 and 1904, both east and west bound."

(The statement so produced by the witness is marked "Exhibit No. 4," and is attached hereto).

(Here follows Exhibit No. 4 marked pp. 2053*d*, 2053*e*, and 2053*f*.)

I submit Exhibit No. 5, covering the information asked for from southwest Missouri River points, both east and west bound. We make them separate from Omaha. The heading is similar to the one for Sioux City. The southwest Missouri River points as I presume you understand, includes Kansas City, St. Joe, Atchison and Leavenworth. That is the group.

Mr. BAXTER: Read the heading, so we can identify it in the record.

A. "East-bound traffic from and through southwest Missouri River points for the years 1902, 1903 and 1904."

Q. What exhibit is that you are speaking of?

A. That is Exhibit No. 5.

Q. The copy that I have reads, "East-bound traffic from and through southwest Missouri River points." Does yours read the same way?

A. Yes, your copy is identical, I presume, with this, but we make the east-bound and west-bound separately.

Q. You include both in your exhibit No. 5?

A. Yes sir.

2054 (The statement so produced by the witness is marked "Exhibit No. 5" and is attached hereto.)

(Here follows Exhibit No. 5 marked pp. 2053*g* to 2053*l*, inclusive.)

EXHIBITS

NOT

SUITABLE

FOR

MICRO -

FILMING

The WITNESS: That last statement is Exhibit No. 6, which covers the Omaha Group points. The caption of that statement is "East-bound traffic from Omaha, South Omaha, Council Bluffs and Nebraska points for the years 1902, 1903, and 1904," and also separate statements for the west-bound.

(Here follows Exhibit No. 6 marked pp. 2053*m* to 2053*p*, inclusive.)

Q. Have you read the captions of those?

A. I think I did, Judge, but I will read it again. The caption is "East-bound traffic from Omaha, South Omaha, Council Bluffs, and Nebraska points for the years 1902, 1903, and 1904," and separate statements for the west-bound. That covers the items enumerated in the memorandum.

2055 Mr. COWAN:

Q. Do they show the tonnage which originates at Missouri River points and which moves eastward through Missouri River points, which did not originate there?

A. That did not originate at the Missouri River?

Q. My question is, do they show the tonnage originating there and the tonnage which originates west of there and passes through there?

Mr. DAWES: Separately?

Mr. COWAN:

Q. I do not mean, does it show it separately, but does it show both in the gross?

A. It shows it separately, I think, sir. That includes certain territory west of the Missouri River in the statement of both east and west bound business; they are known as the interior Kansas points, if they are west of Kansas City, and west of Omaha, they would be the interior Nebraska points.

Q. Well, explain then, what territory is covered in the tonnage mentioned as moving out of Missouri River, does it simply cover the points on the Missouri River, or other points, and if other points, state what they are?

A. So far as southwestern Missouri River points are concerned, our statements show all car load shipments regardless of the origin,
2056 either unloaded, or which ends at, or is rebilled or forwarded from Kansas City, Leavenworth, Atchison and St. Joe, and from the junction points—that is, this is live stock now, all car load shipments from any junction point in Kansas or Nebraska on or south of the Beatrice line, which are forwarded through to any point on or east of the Mississippi River, including gulf ports for export.

Q. What is the Beatrice line?

A. Well, that is a line dividing the north territory from the southern.

Q. Running easterly and westerly through Beatrice, Nebraska?

A. Yes sir.

Q. It appears in the statement from St. Paul that for the year 1902, the total live stock tonnage from St. Paul is 13,130 tons, whereas for the year 1904, it is put at 133,854 tons. Now, how is that great difference in the year 1902 and the year 1904 accounted for, do you know?

A. Well, I do not, that matter has not been brought to my attention so I could not answer as to that.

Q. Do you now include different character of shipments, that is,

in the statements for the year 1904, than what were included in the year 1902?

A. We include the same character of shipments.

Q. The same character?

A. Yes sir, for each year. There has been no change in the character of the shipments at all.

Q. Now, in the St. Paul territory, what shipments are in-
2057 cluded?

A. On the live stock?

Q. Yes, sir.

A. We include all the business that is rehandled at St. Paul if it have the privileges of the St. Paul stock yards, or the St. Paul market; if the live stock is way-billed through from the point of origin, which is west of St. Paul, and does not receive the privileges of the St. Paul market, we do not include it for we have no account of it.

Q. That would account, then, for the difference in these two items. It would not mean that there is that much difference in shipments passing through there, but means that difference in the character of the billing?

A. That might be the case.

Q. That might also be the case as applied to the Missouri River?

A. Yes sir.

Q. To some extent. Now, in regard to the packing house products and dressed meats, from what territory did you include shipments of that class of commodity?

A. From southwest we include the business from Kansas City, St. Joe, Atchison and Leavenworth, and there are a few points in the interior of Kansas that we also include where there are some small packing houses; I do not recall them.

Q. They are comparatively small?

A. They are comparatively small, yes sir.

2058 Q. And the same applies to the northwestern group, Omaha and Nebraska City, Sioux City?

A. Yes, the same would apply there, but I do not recall now except that Lincoln, Nebraska, any other point that is west of the River for the packing houses.

Q. You furnished these statements to Judge Baxter, did you, for the railroads?

A. Yes sir.

Q. What is the basis upon which you estimated the revenue, was it the actual revenue received by the roads on the particular shipments, or some other basis?

A. The basis on which we compute the revenue so far as the Missouri River business is concerned, is the proportion from the Missouri River to the Mississippi River, and not the entire earnings through to Chicago, if the business came to Chicago; all the business crossing the River, crossing the Mississippi River, coming from the Missouri, whether is crosses at St. Louis or other points on the River north of there up to and including Dubuque, we compute at the River earnings the proportion as set forth in the tariffs.

Q. There is a proportional tariff on these commodities between the Missouri River and the Mississippi River?

A. Yes sir.

Q. That is applied on all shipments that go east of the Mississippi River?

A. Yes sir.

Q. And that is the basis on which you keep your book of
2059 earnings?

A. That is the basis on which we make up this statement of earnings.

Q. Now, you keep your books also on that basis, do you Mr. Mahony, or do you keep your books on the basis of the actual revenue on a particular freight?

A. No sir, we keep our books on the basis of the proportion up to the River, between the two rivers.

Q. Is that upon the theory that that is fairly representative of the revenue?

A. Well, of course, that is the custom since I came to the office and before I came. What the original reason was for making it that way of course, I am not advised: but the presumption that I have had in my mind is that it equalizes it. For instance the Missouri Pacific is included in that; they would not bring business to Chicago naturally, they would take it to St. Louis. The same is true of the Frisco Road and other lines that do not run directly east but run either south or southeast, and so the business is computed in order to show comparatively the earnings of each line up to the Mississippi River.

Q. Out of this particular business?

A. Yes sir.

Q. It does not include business originating in the intermediate territory between the two Rivers?

A. No sir.

Q. It does not include business which is destined to points
2060 intermediate between the two Rivers?

A. No sir.

Q. The basis on which you used your rates, are those which are shown in the published tariff of proportional rates?

A. Yes sir.

Q. And you have that tariff?

A. Yes sir.

Q. Please file that also, Mr. Mahony, and point out in some way what the pages are on which these proportional tariffs are shown.

Mr. LYNDE: Can't he state that, and save filing them?

Mr. COWAN: If he can state it, I thought it would save time.

A. I have three tariffs as called for in this memorandum; one between the Missouri River and Chicago, that is the Southwestern Missouri River, which includes Omaha; and a second tariff which covers the business from Sioux City; and a third tariff which covers the business from St. Paul, and for your convenient reference and examination, we have shown the proportional rate; as it is rather a voluminous document, we have shown on an extra sheet here, the

proportional rates on the cattle, hogs and sheep through to Chicago, and also what they are to the Mississippi River, and the rates at which we compute the earnings.

Q. And have you shown the same with respect to the packing house products and dressed meat?

2061

A. Yes sir.

Q. And the same with respect to classified traffic?

A. Yes sir.

Q. Can't you just file that sheet instead of filing the tariff?

A. Well, the sheet refers to the tariff, and perhaps it would not be complete without the tariff.

Q. You may just file the tariffs together with the explanatory sheet.

A. Yes sir.

Q. And such parts can be used as necessary.

(The documents produced by the witness, were marked "Mahony Tariffs Nos. 1, 2 and 3," respectively, and filed as a part of his evidence.)

A. The first tariff is Western Trunk Line tariff, No. 201,

Q. State what those proportional rates are.

Mr. LYNDE: What is the first tariff, between the Missouri River points?

A. Between the Missouri River points, yes sir. I will state for the information of Judge Baxter, that this additional sheet that I had prepared last night, you haven't got on the copy that we made for you several days ago, as you know I expected to be examined last week, and it occurred to me on hearing some of the testimony here yesterday that I might be asked more in detail than I had in the printed tariff, I made up a summary of the rates on the cattle, hogs, sheep and packing house products, and added it to the tariff,

2062

but it in nowise differs from the rates set forth in the tariff itself.

Mr. BAXTER: Will you furnish me a copy of that?

A. I will be glad to do so. In order that it might be of easy reference, I had this done.

Q. Now, before you leave the question of the tariff there, in order to have them described so they can be found and be placed in the transcript, will you give the rest of the trunk lines, I. C. C. Numbers of each one?

A. The Western Trunk Line Tariff is No. 201. The I. C. C. number is 636.

Q. Well, I only want the I. C. C. number. We can identify them that way. Western Trunk Line, I. C. C. No. 636 is all I want.

A. Yes sir.

Q. Just call those numbers, please.

A. I don't know that I quite understand you, Judge.

Mr. COWAN: He wants the numbers of the tariffs for the purpose of identification.

Mr. SEVERANCE: The Interstate Commerce numbers.

Mr. BAXTER: Then any one can call on the Interstate Commerce Commission for them.

A. This is Western Trunk Line Tariff, No. 201, and it bears the I. C. C. Tariff Number 636.

Mr. SEVERANCE: What are the other two?

A. The Sioux City and Sioux Fall[illegible]e have them in one sheet, No. 202, Western Trunk Lin[illegible] tariff, bears the I. C. C. num-
2063 ber 643. The St. Paul Tarift, which we number 181, bears the I. C. C. number 431.

Mr. COWAN:

Q. You have an explanation there of the tariff, have you, in a sheet?

A. That is what I transferred to this special sheet, instead of having it separate, I had it pasted in so that it would not be lost or mislaid.

Mr. BAXTER: In which of those tariffs did you paste that sheet?

A. In the I. C. C. tariff No. 431, that is the St. Paul tariff, and in the I. C. C. tariff No. 643, the Sioux City tariff.

Mr. COWAN:

Q. Mr. Mahony, in making up the statement Exhibit No. 6, you have stated the tonnage over each road of each one of the items mentioned, of the class goods, and a large number of commodities; but you have not figured out the revenue as applied to each different commodity, the revenue that is figured out for the total of the commodities is made upon what basis?

A. That is made upon the basis of the tonnage for each class or commodity, the tariffs show the rate.

Q. Does the tariffs show the proportional rate on each that was used?

A. Yes sir, I stated that in computing the revenue, we, in
2064 all cases used the proportional rate, or the rate to the Mississippi River except on St. Paul and Minneapolis.

Q. Yes; and on St. Paul, did you use a proportional on Chicago business destined east of the Indiana and Illinois State line, or just the rate to Chicago?

A. No, sir, we used the full Chicago rate.

Q. Just the Chicago rate?

A. The Chicago rate, yes, sir.

Q. If we want to ascertain for example, the earnings upon the Third Class of traffic over any one of these roads, we would simply multiply the tonnage by the proportional rate?

A. By the proportional rate if it is from the Missouri River.

Q. That is what I mean, from the Missouri River to Chicago?

A. Yes, sir.

Q. And by the Local Rate, if it is St. Paul to Chicago?

A. Yes, sir.

Q. Now, as a matter of fact, do these statements include shipments that were made for example, from Denver or Salt Lake City?

A. No, sir, they would not include Denver. They do not include Colorado.

Q. They include only the originating points you have named?

A. They include, as I say, so far as the Southwestern Missouri River points are concerned, the points in Kansas that would be east of the Colorado line.

2065 Q. That will be all points in Kansas?

A. Yes, sir.

Q. It includes all points in Kansas?

A. Yes, sir, south of the Beatrice line.

Q. South of the Beatrice line?

A. Yes, sir.

Q. And all points in Nebraska south of that line, is that right? It would include all points in Nebraska south of that line?

A. Yes, sir. That is all junction points, not the local points, the junction points—we only get reports from the junction points.

Q. Now, would this freight be freight which had originated at points further west and had come east—it would not include that?

A. No, sir.

Q. Well, how would you know whether it did or not?

A. Because we do not make reports of that freight at all.

Q. I am just trying to get at what the fact is, Mr. Mahony, that is all, and to get to understand it.

A. Yes.

Q. The tonnage here represented then, includes tonnage originating or shipped by reshipment from junction points, that is to say, where two railroads meet or cross in Kansas and Nebraska south of the Beatrice line?

A. Yes, sir.

Q. And on the Missouri River?

A. Well, if it is coming east of the River.

Q. East of the Mississippi River?

2066 A. East of the Mississippi River?

Q. And includes only that freight, is that right?

A. Yes, sir.

Q. St Paul includes what?

A. St Paul includes the business of what is known as the St. Paul groups, that is St. Paul, Minneapolis, Minnesota Transfer and Stillwater. There are some small places in the immediate neighborhood of those cities that are covered.

Mr. SEVERANCE:

Q. St. Paul includes South St. Paul, doesn't it?

A. Yes, sir, it includes South St. Paul.

Mr. COWAN:

Q. Now, what basis of rate did you charge from St. Paul on the live stock, the local St. Paul-Chicago rate?

A. Twenty five cents on cattle.

Q. Now, then, what would the statement mean which says 133,854 tons of live stock from St. Paul to Chicago, would that

mean live stock originating at St. Paul or that came from Montana and other parts of the country?

A. If it came from Montana, we would not have anything to do with it. It would only mean the live stock from Minnesota and Dakota points that would have the privilege of the market or yards at St. Paul.

Q. And so it may have originated anywhere?

2067 A. If it originated in Montana we would not have it at all.

Q. But it may have originated anywhere in North Dakota or Minnesota?

A. Yes, sir.

Mr. SEVERANCE: Or Northern Wisconsin?

A. Northern Wisconsin, would hardly go into St. Paul, it would come direct to Chicago.

Mr. COWAN:

Q. Why do you use the 25-cent rate on the St. Paul business, when that is not the revenue received where they stop off to try the market?

A. Why we use it, I could not say, but that is the way we compute it.

Q. It would be worthless though, as showing the actual revenue on that business, which originated in South Dakota and other points west?

A. Yes, sir, so far as the lines east of St. Paul are concerned, yes that is true.

Q. Well, what would it mean as to points west of St. Paul; it wouldn't mean anything as to their revenue, would it?

A. That is true, sir.

Q. In other words, the revenue computation does not mean anything in point of actuality?

A. No, sir, not so far as St. Paul is concerned.

Q. Well, why did you get it up in this way when it doesn't mean anything?

2068 A. Well, that is the local rate and it was computed on the basis of the local rate, although the lines east of course, get a division of the through rate—sometimes it is one thing, and sometimes it is another. It depends on where it originates.

Mr. SEVERANCE: Mr. Cowan, let me make a suggestion. I don't want to interrupt, but I think I can explain it probably. There is no rate less than the 25-cent rate to Chicago from any point beyond St. Paul, although the division with the line this side would be less a great deal, isn't that what Mr. Mahony means by figuring on the basis of 25 cents, because it must pay a revenue of at least 25 cents if it comes from St. Paul or beyond.

Mr. COWAN: If it came from beyond, it would pay more, if it came from a station where the rate is more.

Mr. SEVERANCE: Certainly, but he is figuring the revenue from St. Paul here as I understand it.

The WITNESS: That is the basis on which we make it.

Mr. SEVERANCE: There is actually paid that amount of freight.

The WITNESS: Why they fix 25 cents, I could not say.
Mr. SEVERANCE: Although the local lines get less on it.
The WITNESS: This is the computation that has been made ever since I have been in the office.

Mr. COWAN:

Q. Were all of your other figures made in the same way?
2069 A. No, sir, the merchandise is at the actual rates charged between St. Paul and Chicago.
Q. Well, leaving out the St. Paul situation for the moment—it seems those figures mean nothing as applied to St. Paul——

Mr. DAWES: I object.
Mr. COWAN: He admitted they didn't mean anything so far as the actual revenue is concerned.

Q. Now, in regard to the Missouri River, do the figures showing what the revenue is, mean anything with respect to the actual revenue received?
A. Not necessarily. They mean just as I stated, Judge, that we compute the revenue on the proportional rate to the River, regardless of the actual revenue.
Q. It means this, that if you computed the revenue upon these actual proportions, it would produce certain figures, but that does not mean that that is what the railroads receive for carrying the traffic, is that right?
A. Well, we do not make our computations upon what they receive. We make them upon these arbitrary figures to the River regardless of what they receive.
Q. What they would receive if they had charged those figures?
A. The earnings in most cases would be more than our computation.
2070 Mr. LYNDE: Would not that be true in every case?
A. Yes, sir.

Mr. COWAN:

Q. Do you mean the earnings would be more in every case?
A. In every case. Of course, it would not be more if the freight stopped at the Mississippi River.
Q. It is reconsigned at the Mississippi River point?
A. That is the case at St. Louis. That is one of the reasons, I think, why the computation is made on the River, because a number of these lines as I pointed out to you, terminate at St. Louis, and they deliver their freight to their eastern connection.
Q. Well, now, just notice my question a moment and you will see exactly what I am trying to obtain. First, the revenue in the column where you have marked "revenue," does not represent what the roads did actually receive for carrying that tonnage?
A. No, sir.
Q. The revenue in the column marked "revenue" does represent what the road would have received had it charged and collected the

proportional rate between the Missouri River and the Mississippi River?

A. Yes, sir.

Q. Now, if you will notice, that applies to all of these statements of tonnage and revenue. Now, let us go to St. Paul. The column of revenue received, represents what would have been received had the roads charged and collected local rates from St. Paul to
2071 Chicago on that tonnage.

A. The revenue outside of live stocks, shows just what they do charge; it is made up on the tariffs that are in force at the time the statements are made.

Q. As to live stock, the revenue is what would have been earned had the local rate been collected from St. Paul to Chicago on that live stock?

A. The revenue, as I said, is charged from St. Paul on the basis of 25 cents for cattle, even though the revenue earned by the roads east of St. Paul is less, which it would be perhaps, in many cases because of the division of the through rate.

Q. Yes. Well, that reaches the very point that I asked.

The COURT: Now, I guess you understand that, don't you Mr. Cowan. If you think of anything else, ask him outside to fix up some other figures.

Mr. COWAN:

Q. Is it true or not that the dressed meat and packing house products are shipped very largely in the same cars, and in order to ascertain the tonnage of each you have to dissect the way bills, or some sort of shipping bills to ascertain how much there was of each rather than to take them by the number of car loads of each?

A. So that you may understand how we get at those
2072 things, the railroad agents at the different points in the territory, that make reports of this traffic, send us daily statements and from those statements we make up these statistical reports. Now, whether they put in—if they give us a car load of dressed beef and there should be anything else in it, if they omit to state, omit to note in their statement to us—when they say dressed beef, that is all we know about it, it is just their statement, we do not have anything to do with the actual handling of the property.

Q. I understand that, but do the bills or reports which are received by you, show the number of car loads or simply the tonnage of each?

A. The tonnage.

Q. The tonnage only?

A. Yes sir.

Q. And do not show how it is loaded in the cars?

A. No sir.

Q. You made a similar statement for the year 1901 as to dressed meat and packing house products and live stock, which was filed in this case before the Commission, was it not?

A. When was that, sir?

Q. For the year 1901. I just showed you awhile ago a statement

that was filed in the record of the Commission.

A. Those statements of course, appear to me to have emanated from our office, they bear all the marks.

Q. You remember making the statement?

A. I do not personally remember filing those statements,
2073 but the documents that you showed me appear to be statements made at our office; but I do not personally remember about filing them with the Commission.

Q. You do not remember testifying to the Commission in the case?

The COURT: Well, how is that material. Do not discuss that here in the presence of the Court.

Mr. COWAN: That took the year 1901, and this takes 1902, 1903 and 1904.

Mr. DAWES: Show it to him and ask him if he filed it.

Mr. COWAN: I did show it to him awhile ago.

The WITNESS: As I say, they appear to me to be statements made at our office.

Mr. DAWES: Of course, I haven't the slightest doubt that Mr. Cowan will put in correct statements as to this testimony, not the slightest. It is impossible to identify what he is talking about unless he produces them.

The COURT: You have not put in that part which was filed before the Commission as yet. If you produce them, we will see about it. We will mark these exhibits here that he has produced. Now, does any one want to cross examine this witness?

(Witness excused.)

2074 WILLIAM S. TASKER, called as a witness in behalf of the petitioner, having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. State your full name.

A. William S. Tasker.

Q. Where do you reside?

A. Chicago.

Q. What is your business?

A. My principal business here, is the live stock commission.

Q. Are you engaged in any other business?

A. I am.

Q. What is it?

A. I handle cotton seed meal, flax-seed meal and other feeds.

Q. Are you in any other business beside the live stock commission business?

A. Yes, sir. I am interested in cattle feeding and grazing.

Q. Where?

A. Largely in the State of Wisconsin, and at present in Dakota.

Q. At what point in Wisconsin?

A. Well, we have feed yards at Hammond, Turtle Lake, Barron, Mikana, and Birchwood.

Q. Where are these points with reference to distance from Chicago, and what railroads are they on?

A. Well, they are from 370 to 420 miles probably, from Chicago, and they are all located on the Northwestern, or what is
2075 called The Omaha in that territory, except Barron, Wisconsin, which is located on the Soo. That also runs through all these other points except Hammond.

Q. How far from St. Paul are these points?

A. They run from 25 to 80 miles, probably.

Q. Have you had experience in the shipment of live stock by rail to Chicago from those points?

A. I have.

Q. And have you had experience in shipping live stock from other points in other States?

A. Yes sir.

Q. What has been the extent of that experience in a general —, briefly stated.

A. Well, I have been largely engaged in feeding and shipping cattle all of my life.

Q. In the case of that business, have you had occasion to examine into the matter of rates of freights, relative rates, and the circumstances and conditions pertaining to live stock transportation traffic?

A. Yes sir, I know something about it, I am not an expert.

Q. What is the average car loading for a 36 foot car of cattle, which you ship to Chicago from the points mentioned?

A. Well, the cattle that I ship are usually heavier cattle than the average shipment from that territory. We load from 23,000 to 26,000 pounds.

Q. What are the rates which you pay. Name them from the particular points.

A. Well, all the points that I mentioned in Wisconsin
2076 take a 25-cent rate to Chicago.

Q. Do you know whether there is a lower rate on packing house products and dressed meat from St. Paul?

A. Well, I understand there is, but I do not know exactly the rates. I never made any shipments.

Q. In your opinion from the experience that you have had and such investigation as you have made with respect to the matter, would this rate of 25 cents that you speak of be reasonable or unreasonable?

Mr. SEVERANCE: I object to that as incompetent, no foundation having been laid, the witness has not shown himself qualified to give an opinion that would be of any value.

The COURT: He said he had made an investigation.

Q. What kind of an investigation did you make?

A. Well, I have not been especially interested, have not been interested at all in the shipment of dressed meat products from St. Paul. I have understood in a general way that they were very much lower than the live cattle rates, from the territory from which I have shipped; but I have made no investigation so that I could testify as to the actual rates.

Q. Have you any judgment on the subject as to the comparative rates and the justness of them?

A. I think so.

Q. Where do you get that judgment, what do you base it on?

2077 A. I base it on the value of the product shipped to some extent and similarity of the products, probable expense of carrying and so forth.

The COURT: Let him answer?

Mr. SEVERANCE: I don't think that makes him qualified as an expert. I want to renew my objection and have it go in the record.

Mr. COWAN:

Q. What is your opinion as to whether the 25 cent rate charged to you is reasonable or unreasonable?

Mr. SEVERANCE: That is wholly independent of the other matter. As I understand this question does not go to the relative rates at all now. It certainly has not shown any knowledge of the cost of transportation.

A. I think the rate charged in this territory is higher than it should be.

Mr. COWAN:

Q. Now, what territory do you mean?

A. The points given in Wisconsin from which I ship.

Q. As you have named them.

A. Yes.

The COURT:

Q. Why do you think so?

Mr. SEVERANCE: I object to the Court's question on the ground that the witness is not shown to be qualified to give an opinion.

The WITNESS: Shall I answer that?

The COURT: Yes sir.

2078 A. Because cattle can be shipped from St. Paul from the points from which I feed, and reshipped out of St. Paul at a very much lower rate—shipped westward and back through the same points at a greatly reduced rate. I understand, however, that recently there has been an advance on cattle rates from St. Paul, but I have had no experience in shipping since that advance was made.

Mr. COWAN:

Q. Formerly how were those shipments made?

A. Well, there have been very few shipments, as I understand made out of St. Paul, of cattle, that have paid over 15½ cents per hundred pounds, which I understand is the division accepted by roads from St. Paul to Chicago of through shipments from Dakota and elsewhere in the West; but local shipments have paid no more than that.

Q. In what way do they manage it?

A. I suppose a pretended through billing, or something of that sort.

Mr. DAWES: If your Honor please, I move that be stricken out. That is a pretty serious charge.

Mr. SEVERANCE: If this witness has been engaged in it, I don't think we had better have it out. I would like to have it stay in.

Mr. DAWES: I would like to have him state definitely where this billing was engaged in.

2079 Mr. SEVERANCE: If he is engaged in a fraudulent business, like that, let it stay in.

The COURT: Let it go in.

Mr. COWAN: Tell what you know about it.

A. So far as the shipments are concerned, I have made but one shipment in charge of my brother, who is our Manager. These cattle originated in Northwest Wisconsin, and came to Chicago on the 15½ cent rate from St. Paul. I asked him to see one of the commission firms there and arrange for a billing of the stock as they usually do and that is all we paid, 15½ cents.

Q. Now, according to the information you have with respect to the St. Paul shipments previous to the time of this recent advance that you mentioned, what has been the prevailing rate at which live stock was shipped from St. Paul to Chicago, no matter where they came from?

A. The 15½ cent rate is the prevailing rate that I understand we pay, through our house.

Q. That is, you pay the freight?

A. We pay the freight.

Q. Do you receive a good many shipments from that locality?

A. We do.

Q. Do you ever pay any more?

A. There have been times when we have paid more but not recently.

Q. What do you mean by "recently"?

A. Well, the last thirty days——

2080 Q. How is that?

A. Oh, probably two years ago; I can't give dates exactly because I do not keep the accounts, the books.

Q. But in the payment of the freight for your patrons shipping from St. Paul who have cattle locally in that part of the country, the prevailing freight you have paid has been 15½ cents?

A. Yes, sir.

Q. If they can ship, and do ship on that basis, you think 25 cents is too high from that territory?

A. Yes sir.

Q. What are the distances where this 25 cent rate is charged.

A. The distance is less than from St. Paul.

Q. If the dressed meat man has a less rate—has a rate we will say, of 15½ cents or 16 cents on the dressed carcass from St. Paul, and you have to pay 25 cents on your live cattle from your station nearer to Chicago on the same line of road between St. Paul and

Chicago, does that or not give any advantage to the dressed meat man in his shipment over you?

Mr. SEVERANCE: I object to that as asking for a conclusion, that is a question that is for the Court to determine. The witness is not an expert, no foundation has been laid for requesting his opinion on this or any other question.

2081 The COURT: The objection is overruled.

Mr. COWAN:

Q. Answer the question.

A. It would seem to me an unfair discrimination.

Q. Why?

Mr. SEVERANCE: I move to strike out the answer as a decision upon a question of law.

The COURT: The Court wants all the help he can get on questions of law.

Mr. SEVERANCE: I think the question asked of him was to give his view on a point of law.

The COURT: Well, let him answer.

Q. (Question read.)

Mr. SEVERANCE: I make the same objection.

A. Because dressed meats are worth more per pound than live cattle, and that alone would be sufficient it would seem to me.

Mr. COWAN:

Q. Are you acquainted with the matter of train service on dressed meats and packing house products as compared with the live stock from that locality to Chicago?

A. Well, I have sometimes accompanied shipments of live stock part of the way to Chicago, sometimes all the way.

Q. And have you also been on trains in which the dressed meat was carried?

A. Yes sir.

2082 Q. What is the comparative rate of speed and character of service between the two?

Mr. SEVERANCE: I would like to have him specify on what road, because there is a difference in different roads.

The COURT: All right, tell what road.

Mr. COWAN: Yes, name the roads in connection with your answer.

A. Well, I can recall more distinctly a train that ran from Kansas City to St. Paul over the Chicago, Milwaukee & St. Paul through Iowa, called the meat train.

Mr. SEVERANCE: Well, that train had nothing to do with this proposition. He is asking about shipments from St. Paul to Chicago. He is now talking about Kansas City to St. Paul, that is another matter and not responsive.

A. I was talking about meat trains. He didn't say that, he said meat trains; I am talking about the same thing.

Mr. COWAN: I intended to apply it in this question to shipments

from St. Paul of dressed meats and packing house products as compared with the live stock trains, or trains which bring live stock from those stations that you have mentioned in the vicinity of St. Paul.

A. Well, all I could say in answer to that question is that frequently trains that carried largely refrigerator cars, which I
2083 suppose contained dressed packing house products would pass the live stock trains on the way.

Mr. SEVERANCE: What road was this on?

A. That is on the Omaha and the Northwestern.

Mr. COWAN:

Q. Now, you may give your experience with respect to live stock and packing house products, and dressed meat trains from Missouri River points to Chicago.

A. Well, frequently in accompanying the stock, I have seen those trains pass the live stock trains. They seem to make better time. The understanding has always been that if a man was fortunate enough to get on to a meat train, he could make better time than on an ordinary live stock train. That is as definite as I can answer that.

Q. During the winter months are the cars cleaned in the shipment of live stock in the country where you ship?

A. Not very often.

Q. What time does it require you to ship from your station to Chicago—what time does it take to get your live stock to Chicago?

A. It runs from 24 to 30 hours, sometimes more, 36 hours.

Q. Those are the stations you have already mentioned?

A. Yes.

Q. Do they carry the live stock on a regular train, or do they run special stock trains?

A. Except during what is called the range—the shipping
2084 of range cattle, the trains from that territory are mixed trains, there is not sufficient live stock to have special live stock trains.

Q. What number of cars do they carry in the live stock trains?

A. I think from 30 to 40 cars, I don't know that I ever counted them, that is what the number seemed to be.

Q. Are you a member of the Chicago Live Stock Exchange?

A. I am.

Q. You are interested in these rates both from the standpoint of the shipper and your business here?

A. Yes sir.

Q. Are you able to state whether or not the fact that the lower rate upon the product of the animal than on the animal constitutes any preference which has any effect upon the shipments to the Chicago market as against shipments to the other markets?

Mr. SEVERANCE: He will answer that yes or no, I suppose, as to whether he has any knowledge, if it is a proper question.

The COURT: Yes.

The WITNESS: I don't understand that question.

The COURT: Can you give any judgment on that question.
(Question read.)

The COURT: Do the rates make any difference about the shipments?

2085 A. I think they do.

The COURT: You answer that, that you have an opinion?

A. Yes sir, I do.

Mr. SEVERANCE: I move to strike out his opinion that they do.
The COURT: Yes.

Mr. COWAN: The Court rules that you may answer. What is that opinion and the ground of it?

Mr. SEVERANCE: That is objected to as incompetent, irrelevant and immaterial, and that no foundation has been laid.
The COURT: The objection is overruled.

A. At certain points in Western Iowa where the cattle rate is 23½ cents per hundred pounds, and the dressed beef rate from Omaha, I understand, is 16 cents per hundred, there has been a discrimination in my opinion, against Chicago, as I have lost a large amount of business that has gone to Omaha that would have come here.

Mr. SEVERANCE: That is on account of the 16 cent beef rate?

A. The low rate on beef.

Mr. SEVERANCE: That is the first time I ever heard of that rate. That is quite interesting.

A. I understood it was. I have no expert knowledge on that, that is an opinion.

Mr. SEVERANCE: Oh yes you are—a 16 cent rate.

2086 The COURT: Counsel should not make too many comments. You can cross examine in your turn.

Mr. SEVERANCE: I beg the Court's pardon; I will comment upon it later.

Mr. COWAN:

Q. Do you know as a matter of fact, whether the lower dressed beef rate from the Missouri River to Chicago, and the higher live stock rate from points intermediate have affected shipments to the Chicago market.

Mr. SEVERANCE: I object to that on the ground that no foundation has been laid, and the witness has disqualified himself by the last absurd answer, which is that there is a 16 cent beef rate from Missouri River points, when the testimony shows there is no such rate. He does not know anything about the business.

The COURT: Well, let him answer. Give your foundation first.

Mr. SEVERANCE: Here is a man asked to testify as an expert and he don't know the first fundamental facts.

The COURT: I will hear you (addressing the witness).

A. Judge, I stated I was no expert in the first place.

Mr. SEVERANCE: He admits it himself.

The COURT: Go ahead, answer the question.
A. It is my opinion——
The COURT: Well, give the facts first.

2087 Mr. COWAN:

Q. I asked you whether you knew as a matter of fact that traffic had been diverted because of the higher rate on live stock, and lower rate on dressed meat and products from the Missouri River?

Mr. SEVERANCE: I make the same objection.
The COURT: The same ruling. You may answer.

A. I do know that quite a large per cent. of the cattle that formerly came to Chicago have gone to Omaha from the territory from which we drew trade.

The COURT:

Q. Well, do you think you know the cause of it?
A. I do.
Q. Well, what facts have you now upon which you can base an opinion as to the cause of it?
A. Well, I never have looked the rate matter up, so I could not give that. That is only an opinion, I don't know the facts.
Q. You don't think your opinion would amount to much, do you, if you don't know the facts?
A. I haven't said I knew.
Q. I asked if you do know?
A. I do know the live stock cattle rate, but I don't know what the dressed meat rate is. I have stated repeatedly that I did not know.
Mr. SEVERANCE: You said 16 cents.
A. I understood that, I didn't state that I knew.
2088 The COURT: Ask another question.

Mr. COWAN:

Q. Do you know what it cost for the maintenance, or what it is worth for the maintenance of stock yards in Iowa, and Minnesota and Wisconsin, at which live stock is shipped to the Chicago market?
A. I don't know.
Q. How are the cars bedded, who furnishes the bedding and what is the weight of it?
A. We have always bedded our own cars. We usually bed with straw, and put from three hundred to five hundred pounds of straw in a car. Sometimes if we can get cheap hay, we use that, that is better.
Q. What would the bedding and the manure and stuff, left in the car weigh, where you unloaded at Chicago, where you have a fresh car and bed and ship in?
A. Of course, that has the accumulation in shipment of the droppings from the cattle, probably 700 to 800 pounds, maybe a thousand in some cases.

Cross-examination by Mr. SEVERANCE:

Q. What are the points in Wisconsin where you feed from which you ship?

A. Hammond, Turtle Lake, Barron—I never have shipped from Barron, but we are building yards at Barron now,—Mikana, and Birch Wood.

2089 Q. What roads?

A. What is called the Omaha in that territory, the Northwestern System, running north from Hudson towards the Lake. One line runs through Turtle Lake from Hudson and the other line runs to Chicago through Eau Claire and Rice Lake.

Q. How far did you say these places are from St. Paul?

A. Well, Hammond is probably 25 miles.

Q. What is the rate on live stock into St. Paul from Hammond?

A. I think it is about 9 cents.

Q. About 9 cents?

A. Yes.

Q. And the rate from there to Chicago is 25 cents?

A. From Hammond, yes sir.

Q. Are you sure it is just 9 cents into St. Paul?

A. No, I said about.

Q. Do you know anything about it?

A. I do know a good deal about it.

Q. Tell what you know then. What is the rate from Hammond to St. Paul.

A. You are getting very decided.

Q. I am, yes.

A. Well, I don't know exactly.

Q. Well, all right. What is the rate from Turtle Lake into St. Paul?

A. The per car rate, is $20.

Q. How much is it per hundred?

A. I don't know because I have not shipped by those rates.

Q. Well, how many tons do you get in a car when you ship it for $20?

2090 A. It depends on the kind of stock you load, light stock, probably 22,000 pounds, and heavy, fat cattle, you might load 30,000 pounds.

Q. Thirty. Well, 22,000 pounds, then the rate would be about 9 cents a hundred weight, on the $20 basis, wouldn't it?

A. Well, you can count it yourself.

Q. Well, isn't that about so?

A. I don't know.

Q. Well, now, you say that you shipped some stock through the instrumentality of your brother and a commission firm from South St. Paul to Chicago, which stock had originated over there in Wisconsin, on a rate of 15½ cents, did you say?

A. Yes sir.

Q. Where did that stock come from?

A. It came from Turtle Lake.

Q. And you shipped it from Turtle Lake to South St. Paul?

A. Yes sir.

Q. Then you said that you told your brother to go and fix up a deal with the commission man, didn't you?

A. I told him to see a commission man and he would attend to the shipment.

Q. What was the name of the commission man that arranged this?

A. I don't recall. I think it was the Trouty Commission Company.

Q. The Trouty Commission Company?

A. Yes sir.

2091 Q. Now, isn't this the fact: That whatever commission man he may have been, he had received cattle from Western points, in Montana or Dakota somewhere, or possibly Northern Minnesota, billed through to Chicago; that those cattle were sold on the St. Paul market and that you and your brother and this commission man together went in and turned in cattle from Wisconsin on the pretense that they were the cattle that had come in from Western points and in that fraudulent way secured that rate?

A. Well, I don't——

Q. Well, isn't that the way it was done?

A. I don't know about the fraudulent feature of it.

Q. I know, but isn't that the way it was done, wasn't it that character of a bill on which you sent the stuff through?

A. I could not answer that question, either, but that would be my understanding of it.

Q. That is it exactly. So that you brought cattle over from Wisconsin and got the railroad to haul them to Chicago from South St. Paul upon the pretense that they had come from Western points and were entitled to go through on the proportional rate. Is that the way you usually do business?

The COURT: Wait a minute, let him answer.

A. That is the way we are often forced to do business, yes, sir.

Mr. SEVERANCE: Forced by competition.

2092 The COURT: Hold on, he has not answered the first question.

Mr. SEVERANCE: Yes, he has.

The COURT: That was the last question. Now, repeat the question leaving out the last part and let him answer the first part.

Q. (Question read as follows: "So that you brought cattle over from Wisconsin and got the railroads to haul them to Chicago from South St. Paul upon the pretense that they had come from Western points, and were entitled to go through on the proportional rate.")

A. There was no pretense about it.

The COURT:

Q. Well, were they entitled to go from the location upon that lower rate, from the locality from which they were sent?

A. My understanding was that all the cattle that came from St. Paul by all the shippers were shipped on the basis of the 15½ cent rate.

The COURT:

Q. Whether they came from Minnesota, Dakota or Wisconsin?

A. Yes, sir, I understand that whether they came from there or not, that is the rate that was secured by all shippers.

Mr. SEVERANCE: Why did you go to a commission man then, to get billing from him, why didn't you bill them yourself?

2093 A. If I had been there myself, probably I would. The commission man understood the business better than I or my brother.

Q. You are a commission man yourself, aren't you, and belong to the Live Stock Exchange?

The COURT: Well, wait, let us get this other. Is there any pretense that there is a difference between the locality of Northern Minnesota and Dakota and Wisconsin, do you claim there is a difference?

Mr. SEVERANCE: This is not Northern Minnesota, your Honor, this is on the line of the Northwestern road towards Chicago, east of Hudson.

The COURT: Well, any part of Minnesota, is there any pretense that there is any difference between any of these places and the West?

The WITNESS: I would like to state——

The COURT: Wait, I am asking counsel for information.

Mr. SEVERANCE: How is that?

The COURT: Do you claim there is a difference?

Mr. SEVERANCE: I asked Mr. Mahony that question, and he said there was no through billing from those places to Chicago by way of St. Paul. He said they didn't go around that way. I asked him that question when he was on the stand.

The COURT (to the witness): What do you want to say, 2094 do you want to answer?

The WITNESS: As I understood, the rates in Northwest Wisconsin were not covered by this arrangement of the division of rates that covered the territory in Dakota and further west.

The COURT: How did you happen then, to get the lesser rate, the proportionate rate?

A. Well, as I have stated before, so far as I know, all the shipments wherever they originate that came out of St. Paul have only paid 15½ cents.

Q. Have they done that in some surreptitious way, or is that understood by the railroads?

A. It may not be openly understood, but it is like a great many other things.

Mr. SEVERANCE: It is done quietly probably. Well, it is understood by the commission men, is it?

A. The commission men all understood that 15½ cents was the rate.

Q. I know, but this practice of billing is understood by commission men, is it?

A. I could not answer that because I do not belong to St. Paul, and do not know anything about the details of the business in St. Paul.

Q. You say you have paid freight charges and all that sort of thing?

A. I do in Chicago, yes, sir.

2095 Q. And you are on the live stock Exchange?

A. Yes, sir.

Q. You are an expert in the matter of stock shipments, aren't you?

A. I say I am not.

A recess was here taken until two o'clock p. m. of the same day, Wednesday, October 4, 1905.

2096 OCTOBER 4, 1905—2 o'clock p. m.

Court met pursuant to adjournment.

Counsel present same as before.

Whereupon WILLIAM S. TASKER, having been duly sworn, resumed the stand for cross examination by Mr. Severance, and testified as follows:

Q. I would like to have you produce here the bills of lading upon which those cattle of yours that originated in Wisconsin came through on the proportional, on which they were shipped. I suppose you have them on file in your office.

A. We never ship any cattle on bills of lading that I know of.

Q. How are they shipped?

A. They are re-consigned probably from the Prouty Commission Company. They are consigned to the Prouty Commission Company in St. Paul, and, not being sold there, they are re-consigned to Chicago.

Q. Don't you have some kind of a paper, a way-bill or something?

A. I never get anything. There is a contract made at the time and the shipments are made on that. We never have any contract unless a man accompanies that stock. No one accompanied that stock.

2097 Q. Wouldn't the Prouty Commission Company have it?

A. No, they would not have the contract.

Q. When stock are shipped from there, from Wisconsin points there is a bill of lading, isn't there?

A. There is no bill of lading issued on live stock except at times when a man be hard up for money.

Q. And wants to borrow on it?

A. Borrow on it or something of that sort. As a rule there is no bill of lading on live stock.

Q. There must be some kind of a paper, whether you call it a

bill of lading or whatever you call it, showing that the stock is consigned through to Chicago with the privilege of stopping off at St. Paul?

A. The bills that the railroad company have we never see. We have a contract, a contract is issued to the shippers but they seldom take that contract unless they want to use it for transportation purposes.

Q. Then you don' know what particular bill of lading or documents or whatever it was that the Prouty Commission Company produced in order to entitle these cattle to a through shipment?

A. I do not.

Q. Are they called live stock contracts? Do they get them?

A. We get live stock contracts when the shipment is made, yes, sir.

2098 Q. Don't you understand that this Prouty Commission Company must have had a live stock contract to entitle them to ship the stock from Montana or some point in the west through to Chicago on the rate on which those cattle were transported?

A. I don't think the Prouty Commission Company or any other concern in St. Paul have those bills at all. They remain in the hands of the railroad company. The Prouty Commission Company never see them. They get a bill for the money due on that stock, and they pay it.

Q. When cattle comes through from the west on this through billing or whatever they call that, whether they call it bills of lading or whatever it is, they have the privilege of stopping off and doing what you call "testing the market," there at St. Paul?

A. Yes, sir.

Q. They are always consigned, are they not, to somebody as consignee?

A. Yes, sir.

Q. Well, now, the consignee, who ever he may be, puts them in the charge of this Commission Company, don't he?

A. The consignee is the commission house.

Q. Do they operate here in Chicago, too, this Prouty Commission Company?

A. No, they ship to different concerns here. We sometimes have business from them but they have no office here.

Q. They are named as consignees in the original papers?

A. Yes, sir, at St. Paul.

2099 Q. Whose name is put in as consignee in Chicago?

A. Thomas Stares & Company, the house that I represent.

Q. That is to say a bill of lading will be issued or a live stock contract or something will be issued on those cattle at the western point, showing that they are to go through to Chicago on the through rate with the privilege of stopping off at St. Paul, and if they are sold at St. Paul then the local rate into St. Paul is paid and that ends the transaction?

A. Yes, that is supposed to.

Q. If they come onto Chicago, they come to the man who is named as consignee?

A. They are re-consigned at St. Paul. They may be consigned through in the name of the man in St. Paul, in his care. It is not necessary to reconsign them. They may be consigned in the care of the man at St. Paul.

Q. You don't know about that, do you?

A. In either case there is no rule governing it.

Q. You yourself have in your possession no documents of any kind which show the character of this shipment?

A. None whatever.

Q. None whatever?

A. No, but you can find out from the Prouty Commission Company a record of the shipment, however.

Q. You have nothing to show how it was done?

A. We have it on our books at the office.

2100 Q. That is simply the fact that you received these cattle?

A. Yes sir.

Q. And that you paid this proportional rate?

A. Yes sir.

Q. And that is all?

A. That is all.

Q. You testified this morning that in a general way, without giving any instances, that you had suffered a loss on cattle from certain districts in Iowa that went to Omaha you suffered the loss of them because they went to Omaha instead because of the 16 cent packing house rate from Omaha. Will you name certain cattle that were diverted by reason of this 16 cent packing-house rate?

A. I can give the names of the shippers who have shipped a great deal of stock there that originally came here.

Q. You don't mean the stock orginally came here. You mean these people have sometimes shipped here?

A. I mean this was their market until conditions changed so that they went to Omaha.

Q. Don't they come here, too?

A. They do with certain grades of cattle. Prime cattle, they bring those here and ship the cheaper cattle to the west.

Q. The fact is that the growth and development of the cattle business in Iowa and Nebraska have been quite marked?

A. Yes sir.

2101 Q. It is a continuous growth, isn't it?

A. Yes sir.

Q. Chicago gets a very large majority of the cattle raised in Iowa now, doesn't it?

A. I think so.

Q. And a very large majority of all the hogs raised there?

A. I believe I have no——

Q. Wouldn't it be your judgment as a cattle expert and a hog expert, that four fifths of the hogs raised in Iowa, are shipped to Chicago?

A. I would not give that figure because Iowa is full of packing-houses.

Q. How many are there there?

A. I don't know that.

Q. And yet it is full of them.

A. I know there is a packing-house at Clinton and Cedar Rapids and Davenport and Des Moines and Ottumwa and other places throughout Iowa.

Q. You know also, don't you, that the proportion of the aggregate hogs raised there, only a very small proportion are killed at those packing-houses?

A. Well, I have not the exact figures so I could not say. I suppose the Chicago market gets a large per cent. of it.

Q. You know very well, don't you, that Chicago gets much more of this live stock than all those packing-houses put together, don't you?

A. I cannot say that I do know that.

2102 Q. Do you know to the contrary?

A. I do not. I have not accurate knowledge.

Q. You don't know much about the live stock shipments.

A. Well, evidently I don't.

Q. Except as to carloads that are consigned to you?

A. I suppose——

Q. That is about right, isn't it?

A. I have not exact knowledge.

Q. Then these investigations that you have made into the business and into the rates and all that, have not been very extensive?

A. I have stated repeatedly that I have not made extensive investigation.

Q. They have not gone to the extent of finding out the amount of the product of the farms of Iowa, and what the rates were?

A. Well, I know what the rates are pretty well because we get consignments from different parts of Iowa and I ship myself frequently.

Q. You feel pretty confident of your knowledge on the subject of rates?

A. I can name a number of points and the exact rate, a number of different points.

Q. That knowledge, of course, applies the same as it does to cattle?

A. There are no——

Q. Wait till I finish my question. That knowledge of yours applies the same to packing-house products as it does to cattle?

A. There are no packing-house products from the points

2103 that I would mention.

Q. You spoke this morning about packing-house products and dressed beef rates from Missouri Valley.

A. I meant, Omaha, that is a Missouri river point.

Q. Your knowledge as to other points is about equal to your knowledge of the dressed beef rate from Omaha?

A. I have no accurate knowledge.

Q. You have no accurate knowledge?
A. No.
Q. That is all, sir.

Redirect examination by Mr. COWAN:

Q. Of what?
A. Of the dressed beef rate.
Mr. SEVERANCE: There is one other question I would like to ask. You have no knowledge of the cost of transporting cattle, that is, the cost to the railroad, have you?
A. No sir. I wish to say in explanation because a wrong impression has—There has been an effort to make a wrong impression in regard to my conniving in St. Paul to secure a low rate, a rate which was lower. The rate which I named is a commonly known rate, 15½ cents and the stock was consigned to St. Paul and there were commission men in St. Paul that said that that was the rate that they were paying. The rate which I paid to St. Paul and
2104 the rate from St. Paul here is about the same as the rate practically from that station to St. Paul. There was no conniving and no scheming about it. It was a well known fact that the 15½ cent rate was accepted willingly by the railroads in order to secure the business.
Q. Now, you have made a very broad statement just now. Have you made——

The COURT: I have already suggested to you a number of times that it is the duty of the counsel to ask questions and not to make comments to the witness. You state that you have made a broad statement. I say that is not proper practice and I again suggest to you that you confine your remarks to questions and not lectures or statements to the witness.
The WITNESS: I wish to state further——
The COURT: Let him ask his questions.
The WITNESS: Two or three weeks ago I was in St. Paul in the office of Slimmer & Thomas who have bought all the cattle I have had brought there, and the rate question came up.
Mr. SEVERANCE: Your Honor, just a moment. I shall object to the witness detailing any conversation with Slimmer & Thomas.
The COURT: I sustain the objection. Now you wait till he asks you a question.
2105 Mr. SEVERANCE: How is that, your Honor?
The COURT: I say ask any question you want. I tell him to wait until you ask him a question.

Mr. SEVERANCE:

Q. What I meant by my statement that you had made a broad statement was that this was a common rate. Now, I want to know this. Do you mean by that that you have been informed by commission men in St. Paul that they shipped on that rate?
A. I have been informed that they shipped on that rate.
Q. Just wait a moment no-, and answer my question.
A. Yes.

Q. That is, the source of your information?
A. No sir, we paid that rate at this end of the line.
Q. You have paid that rate at this end of the line, and you have been informed by commission men at St. Paul that this is the rate on which the traffic is mostly moved, is that right?
A. Yes, I know it.
Q. Have you been informed by them that the traffic moves on different rates, that it moves on rates ranging from a little less than 13 cents, up to considerably above the figure that you have named? Do you know that or have you been so informed by commission men?
A. I have not been so informed, no.
Q. You don't know that?
A. I don't know it.
2106 Q. Has any railroad man told you that you can ship stuff in from Wisconsin and re-consign it to Chicago on these proportional rates, if so, name the man and the occasion when he so informed you, name the person?
A. Well, I had the rate matter up with Mr. Pierce of the Omaha line within the last two weeks and he said to me that the rate in that territory where I am located was based on the local charge to St. Paul and the Division which they accept from the western lines out of St. Paul, of 15½ cents which made about 25 cents and that 15½ was the rate that they accepted from the western lines.
Q. That he told you as the method in which they made a basis of rates?
A. That is what he got out of it. He told me that that was what they got out of it.
Q. Didn't he tell you that it made a difference where the stuff originated, that they got as low as 13 cents in some cases and as high as 20 cents in others?
A. He said they were forced——
Q. I want to know if he did not tell you that.
A. I am telling you what he said.
The COURT: You answer his question.

Mr. SEVERANCE:

Q. I am asking you if he did not tell you that the rate varied, having reference to the place of origin of the stock?
2107 A. He did not.

Mr. SEVERANCE: Well, that is all, then.

Mr. COWAN:

Q. Is it a fact or not that that 15½ cent rate which you said was commonly known to exist by the railroads, applied on shipments originating in Wisconsin that went into St. Paul and were re-consigned to Chicago?
A. Well, my information was that it applied on any shipments out of St. Paul at that time.
Q. Did it include shipments originating in Wisconsin?
A. It included all shipments wherever originating.
Q. Are you able to state it as a fact or not that that was com-

monly known among persons engaged in the live stock traffic and persons in that part of the country?

A. Yes sir.

Q. Was there any secret about it?

A. No sir.

Q. Did you ever know an instance in which anybody ever paid the 25 cent rate from St. Paul to Chicago on shipments of live stock no matter where they came from?

A. I do know of an instance, but we were asked to send the papers forward to J. J. Sutton of Columbus, Wisconsin, who made two or three shipments last season and through some error in the billing a rate of 25 cents was charged. I understood he afterwards had it refunded to him.

2108 Mr. DAWES: I move to strike that out.

The COURT: Strike out the last part of it, what he understood.

Mr. COWAN: The Court does not strike out the fact that he paid the 25 cents.

The COURT: No, what he understood, from there on.

Mr. COWAN:

Q. Now, the live stock which was shipped direct to Chicago from the local stations out from St. Paul, pays the 25 cent rate?

A. Yes sir.

Q. But that that goes into St. Paul may be billed out on the proportional?

A. Yes sir.

Q. Do you know of other instances beside the one you mention of shipments of 25 cents direct from St. Paul?

A. That is the only case that ever came under my observation.

Examination by Mr. RANSOM:

Q. Will you please state the locality of these shipments that you say formerly came to Chicago and now go to the Missouri river or Omaha, in Iowa?

A. Well, at Manning.

Q. Where is Manning?

A. About 75 miles this side of Council Bluffs.

Q. On what road?

A. It is on the Great Western, the North-Western and the Chicago, Milwaukee & St. Paul.

2109 Q. When were the shipments from that place all coming to Chicago? Do you live there?

A. No sir.

Q. Were you there?

A. I have been there frequently.

Q. How many stock shippers are there at Manning, farmers and all the rest of them put together?

A. I could not answer that.

Q. Do you know all of them?

A. No sir.

Q. Do you know how many there are?
A. No sir.
Q. You don't know how many cattle were formerly shipped there?
A. No sir.
Q. You don't know how many are shipped from there now?
A. No sir.
Q. Then why do you say that the shipments were formerly sent from Manning to Chicago and now go to Omaha?
A. I did not say all of them.
Q. How do you know that those that formerly went to Chicago now go to Omaha?
A. Because a number of the shippers who shipped to our house said that they could do better in Omaha.
Q. Could do better how, on the market?
A. Yes sir.
Q. They did not say it was on account of the rates, did they?
A. They did not explain anything except that they went there.
2110 Q. They thought they could sell their cattle for more in Omaha than in Chicago and therefore sent them to Omaha?
A. Yes sir.
Q. And no mention was made of anything else?
A. Oh, no.
Q. How many shipments did that represent?
A. I could not tell you how many.
Q. Now, then, what other places do you recall?
A. Aspinwall.
Q. Where is Aspinwall?
A. It is a station west of Manning.
Q. How far west of Manning?
A. Four or five miles.
Q. What road is that on?
A. Chicago, Milwaukee & St. Paul.
Q. How many shipments that used to come here now go to the Missouri river from there?
A. I could not answer that.
Q. Do you know whether any that used to come to Chicago now go to the Missouri river?
A. Men who have shipped to us, to our city told me of a number of shipments that they have made west, in fact, the bulk of the stuff that they have shipped went west.
Q. Did they tell you why?
A. That they could do better.
Q. And that was in reply to your soliciting agent o[illegible]f
2111 your soliciting them to send the stuff to your commis[illegible]
firm, wasn't it?
A. Well, it was in answer to my own question, where they had been shipping their stock.
Q. You were soliciting their patronage, were you not?
A. Yes sir.
Q. Now, what other place?
A. Irwin.

Q. Where is that, Irwin?
A. South-west of Manning, probably 12 miles.
Q. What is the rate from Manning to Chicago?
A. I think it is 23 cents.
Q. Where is Irwin, what road is it on?
A. The Great Western and the North-Western.
Q. Did you learn anything about the number of shipments they have made, how many were shipped into Chicago and how many now go to the Missouri river?
A. I have no accurate information.
Q. All you know about it is what some shippers told you there in reply to your soliciting business from them?
A. Yes sir.
Q. You don't know whether they ship to the Missouri river or not, do you?
A. Well, I have their statement for it.
Q. They told you that when you were trying to get them to ship to your firm?
A. Yes sir.
Q. Is the rate about the same in all this territory?
A. Yes sir.
2112 Q. Do you know of any other place?
A. There is Coon Rapids.
Q. Where is that?
A. 12 or 15 miles east of Manning.
Q. What road is that on?
A. That is on the St. Paul.
Q. Do you know anything about the number of shipments that formerly came from that place to Chicago?
A. No, I have not any accurate information on that.
Q. When did you understand that this change in shipments to Chicago and the Missouri river commenced to occur?
A. Probably four or five years ago or three or four years ago.
Q. Was it four or five years ago or was it 3 or 4 years ago
A. I cannot tell exactly.
Q. When were you out there on this drumming up of business for your firm? When was that that you were out there?
A. I have been there a great many times.
Q. Doing this soliciting?
A. I have been there a great many times.
Q. I mean when you had these talks and conversations there with these men, when was that?
A. I was there a number of times and had talks and conversations at a number of different times.
Q. You cannot tell the year that you were out there and had these conversations with the people at Manning?
A. I have been there every year.
2113 Q. You cannot tell the year that you had that conversation?
A. I have had conversations repeatedly, no sir. I cannot give you the exact dates.

Q. Could you give me the year?
A. I cannot remember every year.
Q. Do you know what the rates at Manning and in that country around in there are, to South Omaha?
A. I do not.
Q. You never made any inquiry into the rates?
A. I have, but I have forgotten just what it is.

Mr. RANSOM: That is all.

JOHN MCCARTHY, called as a witness on behalf of the complainant in rebuttal having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. State your name, place of residence and what your business is?
A. John McCarthy, Jefferson, Iowa, farmer.
Q. Do you feed and ship live stock?
A. Yes sir.
Q. To the Chicago market?
A. Yes sir.

Q. Speak out distinctly, please. How long have you been
2114 engaged in that business?

A. Twenty five years in Iowa.
Q. On what line of railroad is Jefferson?
A. Chicago & North-Western and the Chicago Milwaukee & St. Paul, a branch.
Q. How far from Chicago?
A. 365 miles.
Q. What rate of freight do you pay on cattle and hogs to Chicago?
A. 23½ cents.
Q. How is that?
A. 23½ cents.
Q. So you have been engaged in the shipping business for twenty five years, do you say?
A. Yes, in Iowa.
Q. Are you acquainted with the situation in respect to the live stock traffic in that part of the country over railroads?
A. Well, I think I am.
Q. Are you acquainted with the matters pertaining to the rates and the services performed?
A. Yes sir.
Q. Do you go in transit with the live stock to market?
A. Part of the time and part of the time I send a man, or either that or come in on a passenger train myself.
Q. Do you buy from other people and ship, or simply ship your own producing?

A. For the last 3 years I have shipped my own cattle. Be-
2115 fore that, I was buying and shipping on different roads.

Q. How extensively have you been engaged in that business?
A. For the last three years I have shipped about from 20 or 25 or 30 car loads a year.

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Q. Before that time, how many?

A. Well, I have handled some years as high as 2,000 or 2500 cattle.

Mr. DAWES:

Q. That is a little over a hundred cars?

A. It was a good many of them that were feeders and stockers that did not come to Chicago at that time.

Q. Do you know what it cost to maintain the stock yards in that vicinity or do you know approximately what it cost?

A. Yes sir.

Q. State it?

A. Do you mean to build a yard or to maintain it and keep it up?

Q. No, the maintenance of the yard and the keeping the yard up?

A. Well, I would judge from our own yards at our own place, my own town.

Q. What size yards are they?

A. Why, it is a four pen yard with one chute, one loading chute. There are sheds in all four of the yards. One of the yards the shippers don't use at all our home shipper has always claimed the right to use that yard and the others kept out.

Q. From what you know about it, what does it cost to maintain those yards?

2116 Mr. DAWES: I object to that. He states that he knows nothing of them except his home yard. That yard, of course, it would be competent for him to speak of.

A. I said I would judge from my home yard.

The COURT: Let him speak of the yard he knows about.

Mr. COWAN: Unless the witness is permitted to answer with respect to the yards generally, I will simply waive that question and proceed with something else.

The WITNESS: I think the way I answered that question was that I would judge from our own yards. Now, I am acquainted with yards in several other localities besides.

Q. From your acquaintance with those other yards do you know what it would cost to maintain and keep them in repair? The question is, do you know or do you not know? If you don't know, you can easily answer in the negative?

A. I do.

Q. How is that?

A. I do.

Q. Now, what will it cost on an average in the yards that you do know, for the matter of repairs?

A. There has not been any laid out at Jefferson yards for the last two years except $25.00, unless it be on the whitewashing of the fences.

Q. Now you said you knew what it would cost on the average in your judgment for the maintenance of yards. If you do know state how much it would run per yard?

2117 A. Well, it would run about the same proportion.

Q. What time do you load in order to reach the Chicago market, say on a Monday morning?

A. Well, they request us to load about from three to six o'clock.

Q. What hour, what day?

A. That is in the morning, on Sunday morning, for Monday's market.

Q. Where does your train come from that gets those cattle?

A. It comes from Omaha, generally.

Q. What time does the train get your cattle?

A. The last cattle that I shipped out of there——

Mr. LYNDE: Generally you were asked.

A. Sir?

Q. You were asked how it was generally.

Mr. COWAN:

Q. About what time, as a rule?

A. Oh from 5 to 6, not later than 7 o'clock.

Q. Forenoon or afternoon?

A. In the morning, A. M.

Q. Then how many hours does it take you to come to Chicago?

A. From 24 to 28 hours, a good run.

Q. Is that applicable to both roads?

A. I ship mostly over the Northwestern. I have made some shipments over the Milwaukee.

Q. What time does that require to make the Chicago market?

A. About the same.

2118 Q. What are the sizes of the trains in point of loaded cars of live stock, coming to the Chicago market?

A. Well, I have been on trains that have 30 cars and I have been on trains that had 40 cars.

Q. That does not answer the question.

A. Well, state the question.

Q. What are the sizes of the trains, I mean the average sizes of the trains that carry live stock in point of loaded cars, how many loaded cars per train as a rule?

A. Why, from 25 to 40.

Q. Are the trains larger now than they were eight or ten or twelve years ago?

A. Yes sir.

Q. To what extent, how much?

A. Well, it depends on the season of the year sometimes. I think they are about one third larger.

Q. How do the dressed meat trains compare in point of their size and the number of cars, to the live stock trains, if you know?

A. Well, I have noticed that the dressed meat trains as they passed us, I have noticed them sometimes when we were on the side track. Of course, I have not taken the interest in them that I have in our own trains.

Q. How do they compare in point of speed coming to Chicago over those lines?

A. They run faster.
Q. Which runs faster?
A. The dressed meat trains.
2119 Q. Which is the most desirable market for marketing live stock from your part of Iowa?
A. You mean the day?
Q. No, what place, what locality?
A. Well, I think Chicago, for cattle.
Q. What is it?
A. Well, there seems to be more competition and more demand for the different grades of cattle at Chicago.
Q. Do you ever make any complaints with respect to the amount of those rates, to any of the railroads?
A. Well, I have with our own man.
Q. Have you investigated the matter so as to be able to have an opinion with respect to the matter of whether those rates are reasonable or not?
A. I think I have.
Q. In your opinion, is the 23½ cent rate from your place to Chicago reasonable or unreasonable?
A. I think it is unreasonable.
Q. Why do you think so?
A. Compared with other rates.
Q. What other rates?
A. Well, on the dressed product.
Q. What are the average weights of the cars of cattle which you ship to Chicago? I don't mean the car itself, I mean the cattle in the car?
A. Generally, if I ordered big cars, I generally weigh my cattle to put in about 23,000 pounds. That is the way I generally
2120 do, and give myself plenty of leeway and when they would weigh up about 22,000 pounds here in Chicago. The last shipment of cattle I made, in May was 140 head. That was put in nine cars. They will average 14 or 16 when at home, and the first four cars shrunk 66 pounds that was delivered on Monday and the other five cars shrunk 80 pounds.
Q. When did they get in?
A. They got in on Wednesday morning. They were loaded on Tuesday morning.

Mr. LYNDE:

Q. Is that shrinkage per head?
A. Yes.

Mr. COWAN:

Q. How did they come to shrink so much?
A. Well, the run was not so good and we got into the yards here at a very—just at the time of a very cold rain.
Q. Ordinarily, what would you expect the shrinkage to be, what would it be ordinarily?

A. 40 to 50 pounds. Now, I can explain the way them cattle are weighed and that would make it a little plainer.

My feeding farm is about two miles from Jefferson. We have our scales and racks at this farm. In order to load for the early train in the morning we drive in at night and we weigh and sort up our cattle. By sorting up, I mean to even them up for loading, so the weight is at the stock yards, at the pens at the stock yards.

2121 Q. What did those average per carload that you have mentioned?

A. Sir?

Q. What did those average per carload which you have mentioned?

A. In weight out there?

Q. Yes.

A. About 23,000 pounds.

Q. What is the weight of the bedding that you use, how much will it weigh after you have unloaded your cattle here?

A. Well, in this particular case I know, these nine loads of cattle. I bought the bedding because I did not have time to draw it in. I bought it and paid for it. I put in about two tons of bedding in the nine cars, not quite two tons, it lacked about 100 pounds. I paid $8.00 for the bedding.

Q. What part of the weight of the shrinkage of these cattle remains in there when you unload, would all of it or would some of it work out and evaporate?

A. Oh, certainly.

Q. What would it weigh here after you unloaded your cattle, the weight of that bedding and manure and stuff left in there, assuming that you had a fresh car to start with?

A. From 400 pounds to 700 pounds, that would be according to conditions.

Q. Are there any dead freight cars in the train which picks up your cattle?

A. Sometimes.

2122 Q. Are you on the main line?

A. Yes, sir.

Q. How far are they moved as a rule, until they are cut out and put into a full stock train?

A. They are generally cut out at Boon, but at times they have brought them as far as Clinton.

Q. How far is Boon from Chicago, do you recollect?

A. 340 miles, I think.

Q. So you are the next station beyond——

A. The next county seat. We are about 26 miles from Boon.

Q. Do people from your locality patronize the Missouri river markets in shipments of hogs and cattle there for sale?

A. Yes, sir.

Q. To what extent?

A. Well, one of our shippers ships two thirds of his hogs to Omaha.

Q. Do you go there to market?
A. I have at times.
Q. Where are the most buyers for the live stock, the greatest number of persons buying live stock?
A. Chicago.
Q. Are you able to state whether the shipper of the dressed product of live stock to the Missouri river has any advantage or not over the shipper of the live stock itself.
A. Why, all I know is by what I have heard. I don't know it, that is my only way of knowing it.
2123 Q. You have not made any investigation into the subject?
A. No, sir, I have not.
Q. You said you had complained to your man about the rates. Do you mean the local agent of the railroad company at your town?

Mr. DAWES: Would it not be proper to ask him who he does mean?
The COURT: Yes. Objection sustained.

Mr. COWAN: I will put it in your way then. Whom did you mean when you said "your man," you complained to your man?
A. I talked with Mr. Whalen, he was one.
Q. Who is he?
A. He is superintendent of that division.
Q. What complaint did you make to him about it?
A. I not only complained about the rates but I complained about the condition of the yards.
Q. That is the man you meant when you said "Our man."
A. Yes, sir. Mr. Berry is another man.
Q. Who is Mr. Berry?
A. He is connected with the Freight Department.
Q. Of what Road?
A. The Chicago & Northwestern.
Q. Do you know whether it is a fact that the shippers in Iowa knew of the pendency of this suit being the Interstate Com-
2124 merce Commission as to the relative rates on packing house products and live stock?

Mr. DAWES: That is objected to.
The COURT: Objection sustained.
Mr. COWAN: I propose to show that the shippers generally knew of that fact, and knew that the case was pending and then I propose to make the further showing by the witness that it was generally regarded by the people that it would not do any good to make any complaint as to the amount of the rates.
Mr. LYNDE: That is objected to.
The COURT: Objection sustained.
Mr. COWAN: So I understand, the objection is sustained.

Q. At what expense is the railroad company in the matter of receiving the live stock which they ship from your part of the country to Chicago, in the matter of getting the stock, and receiving it at their station?

A. Well, there was a time that the expense was more than it was lately.
Q. How was that?
A. Well, the solicitors ran around after the stock men and spent money and time pretty freely.
Q. Did they pay rebates to get the business?

Mr. LYNDE: I object to that.
The COURT: Objection sustained.

Mr. COWAN: I think that is admissible. They claim that
2125 they are losing money on it. If they sent out men and paid out money to get it, it goes to show that that statement that they lose money on it is not, probably, true.
The COURT: Your question is pretty leading. I don't think I want to go into it anyway.

Mr. COWAN:

Q. Who loads the stock?
A. The shipper.
Q. Who furnishes the bedding?
A. The shipper.

Mr. COWAN: That is all.

Cross-examination by Mr. LYNDE:

Q. When was it that these complaints were made to Mr. Whalen and Mr. Berry?
A. Well, sir, it was right after our meeting with the Legislature a year ago last spring.
Q. That was in 1903?
A. Yes, I think so.
Q. Was it at the time of that meeting?
A. No, it was just after the meeting.
Q. That meeting was a conference of the shippers from different parts of Iowa and the railroad men representing the different railroads in Iowa together with the members of Legislature, was it not?
A. Well, there was a number of us that was down before the Railroad Committee of the House, and Senate and, of course, right after that Mr. Whalen was the man that wired me——
2126 Q. I don't want to interrupt you, but that meeting, that conference that you speak of was the conference between the railroad men and the shippers, with a Committee of the House or of the Senate?
A. Yes, sir.
Q. And the subject that was considered in that conference related in the main, did it not, to the action of the railroad companies in taking away the transportation privilege that had been extended to the shippers?
A. That was part of it.
Q. Also there was a complaint made as to service?
A. Yes, sir.
Q. It was in connection with that conference that you had, or

just after that, that you had your talk with Whalen and Berry, is that it?

A. Well, there was other men with them.

Q. But you referred to them?

A. Yes, sir.

Q. Were they there at that time?

A. Yes, sir.

Q. And this talk was had at that conference, wasn't it?

A. No, this was at Jefferson.

Q. But immediately following that?

A. Yes, sir.

Q. What was the complaint as to the service?

A. Well, I will state it the way that this was brought about, in my own way.

Q. I would rather that you would answer the question.

2127 A. Sir?

Q. If the question is intelligible I would rather that you would answer the question.

A. What was the question?

(The question was then read as follows: "What was the complaint as to the service?")

A. The complaint was that the time from our place to Chicago. We did not get as short a time as we had heretofore. That we were compelled to ride in old dirty cars without any conveniences at all. Also the condition of our yards, and the condition of the feed bunks and water privileges in the yards.

Q. Well, what was the result of that?

A. Well, Mr. Whalen assured me——

Q. Not what he said, but what was the result, if any, what followed?

A. Well, we got better service, some better service as to the run.

Q. Well, as a matter of fact, didn't you get what you asked for?

A. No sir.

Q. In what particular did you fail to get it?

A. We have not in regard to the yards, as yet.

Q. What is the matter with the yards?

A. Well, we have not got a feed bunk to feed in.

Q. What?

A. We have not got a feed bunk that is good for anything, to feed in in the yards.

Q. What is a feed bunk, just tell us?

A. It is a trough that is three planks wide, about a plank
2128 deep, and about three feet high, for the stock to feed out of.

Q. How long do you feed stock in the yards?

A. Well, we bring them in the night before, just one feed.

Q. Just one feed?

A. Yes, I can answer more in regard to that condition of the yards.

Q. I would be glad to hear it.

A. At a wet time you cannot go into the yards without hip boots.

Where they water the stock they almost have to stand on their heads, where they water the cattle.

Q. Did you hear Mr. Ames' testimony yesterday?

A. Yes sir.

Q. I got the impression from him that the Northwestern kept its yards in pretty good condition.

A. I guess he did not inspect our particular yard.

Q. How does yours compare with the other yards along the line.

A. It does not compare favorably.

Q. Yours are a bad sample of yards?

A. It don't compare with Scranton's.

Q. Where is that?

A. That is the next station west.

Q. Well, we will have to look into that, McCarthy.

A. Thank you.

Q. Now, this train that picks up your cattle—you are on the main line are you?

A. Yes.

2129 Q. It is a way train, is it?

A. Sir?

Q. It is a way train that takes your stock down?

A. Generally it is No. 132.

Q. Well, that is a regular scheduled dead freight train, isn't it?

A. Now, then, if in my case, they would make up a special—they agreed to, but I did not ship my cattle all in one day.

Q. If you had shipped your cattle all in one day and had a sufficient number of cars, they would have made up a special train and brought it into Boone for you?

A. They wanted me to include in my shipment cattle that belonged to another gentleman which would have made fourteen loads. I did not do it.

Q. What was the difficulty? why not?

A. He was not ready to ship.

Q. You had how many loads ready to ship?

A. Nine.

Q. If you had had fourteen loads belonging to you there already to ship they would have given you a special train to ship them in, wouldn't they?

A. They might have and they might not.

Q. Didn't you say that they had offered you one?

A. They disappointed me two years ago in that same condition.

Q. They did?

A. Yes sir.

Q. How often have they gratified you?

A. Well, occasionally.

2130 Q. Occasionally?

A. Yes sir.

Q. How often have they disappointed you?

A. When I go over to the other road I generally get very good service on the Northwestern.

Q. Just answer the question as to the Northwestern. How often have they disappointed you, once in two years?

A. Well, they have several times.

Q. But you can use them that way to advantage, that is, play off one against the other and that helps some, doesn't it?

A. Well, it helps, yes sir.

Q. There is a good deal of competition there, isn't there?

A. Well, I don't think so, I think they are pretty fair.

Q. Well, they are both after the cattle, are they not?

A. Yes, but there is only one of them that gets very many of mine.

Q. Which is that?

A. That is the Northwestern.

Q. The service must be fairly good then?

A. It is a little handier to get in.

Q. Isn't the service fairly good?

A. Yes sir.

Q. Now, your cattle are picked up by train No. 132 and that is a sort of a dead freight train. They carry dead freight and live stock and they take it down to Boone, is that right?

A. At times, yes sir.

Q. Well, it is a regular train, isn't it?

A. Yes sir.

2131 Q. And when live stock is ready for shipment, they will take it down to Boone on that train, will they not, regularly?

A. Yes.

Q. Now, at Boone, the live stock cars are cut out, are they not, as a rule?

A. Generally, yes sir.

Q. And consolidated into a live stock train, and then moved down east, is that right?

A. Well, they generally take on the M. & St. L. cars for the last four or five months.

Q. What do you mean, live stock coming down from there?

A. Yes sir, at Grand Junction.

Q. Where is that junction point, west of Boone?

A. Yes sir.

Q. But the live stock, from all of the branches west of Boone, when the cars get into Boone they are consolidated into a live stock train, are they not?

A. Yes sir.

Q. As a rule?

A. Yes sir.

Q. And then moved east from there?

A. Yes sir.

Q. You said Boone, I think, was 340 miles from Chicago?

A. Well, I live 365 miles, and Boone is about 25 or 26 miles.

Q. That is what I understood. From Boone on to Clinton, how far is it?

A. Well, it would be the difference between.

Q. I cannot easily give you the figures myself.
A. I cannot either unless I figure it out.
2132 Q. Then the movement is from Boone to Clinton?
A. Yes sir.
Q. If a train is a full train at Boone, it moves right through without any stops except for watering purposes, is that true?
A. Well, they sometimes side track it for other trains.
Q. Coming from Boone to Clinton?
A. Yes sir.
Q. How often does that occur?
A. Well, I have been on trains a number of times when they have side tracked it for other trains.
Q. How is it between Clinton and Chicago?
A. I did not go into that. About that time I generally go into my bunk and I don't know.
Q. You don't know what happens after you get there?
A. No.
Q. When you come here what time do you get in here to Chicago as a rule?
A. I like to get in about seven o'clock.
Q. I know, but when do you get in?
A. Sometimes from six or from five to nine.
Q. Do you ever get in earlier than five?
A. Not very often.
Q. You know that stock trains do get in here earlier than five o'clock?
A. Yes sir.
Q. The time of arrival here depends somewhat on what
2133 time your train happens to hit Clinton?
A. Well, I suppose so.
Q. Well, that is the fact. There are a large number of trains come in here from Clinton to Chicago?
A. Yes sir.
Q. If you happen to be the first train, you get here very much earlier than five o'clock?
A. Well, I have never got here much earlier than five.
Q. You don't know then about the time of the other trains?
A. No, I do not.
Q. You spoke about having noticed dressed meat trains as they passed you. Where would that be, going from your place down to Boone?
A. No. I have seen that east of Boone. I have had that experience at Tama City several times.
Q. How far is that east of Boone?
A. That is east of Marshalltown.
Q. You yourself ship to Chicago as a rule?
A. Yes sir.
Q. Have you ever shipped to Omaha at all?
A. Yes, I have.
Q. Do you buy feeders at Omaha too?

A. I buy feeders at Omaha, and Kansas City, and sometimes buy them out in the sand hills.

Mr. LYNDE: I think that is all.

2134 Examination by Mr. RANSOM:

Q. What is the rate from Jefferson to Sioux City on live stock, Mr. McCarthy?
A. Well, sir, I could not tell you.
Q. Do you remember what the rate is to South Omaha from Jefferson down to South Omaha?
A. You mean coming this way?
Q. No, going from your place down to South Omaha?
A. Well, sir, I have got their bills, but I could not tell just exactly.
Q. You are in the 23½ cent belt, are you not?
A. Yes sir.
Q. You don't remember the rates in to the river?
A. No, but I remember them this way though.
Q. How long has it been since you shipped to South Omaha?
A. I ain't shipped no cattle to South Omaha for two years.
Q. Or hogs?
A. No sir, I don't handle no hogs only my own raising.

J. W. MOORE, called as a witness on behalf of the complainant in rebuttal having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. State your full name to the reporter, your residence
2135 and your business?
A. J. W. Moore; 6933 Parnell Avenue, Chicago.
Q. And your business?
A. Live stock commission.
Q. Are you chairman of any committee in connection with the live stock exchange here?
A. Yes sir.
Q. What is that?
A. The Railroad Committee.
Q. What is the business of that Committee?
A. Not extensive since I have been a member of the committee. Namely to look after what the committee and the exchange consider irregularities in the conduct of the railroad business.
Q. Does that take into consideration the matter of rates and service?
A. It seems it did at the time this case was instituted. I was not a member of the committee at that time.

Mr. DAWES: Then I move that that answer be excluded.
Mr. COWAN: The fact that he was not a member of the committee at that time don't keep him from knowing the fact that he has stated.
Mr. DAWES: He says that it seems that it did. He thereby qualifies his answer and explains to you that he don't know anything about it. He made what he evidently considered a smart answer.

The COURT: Objection sustained.

Mr. COWAN: When did you become a member of the Com-
2136 mittee?

A. I think three years ago.

Q. Was that while this case was pending before the Interstate Commerce Commission?

A. Yes sir.

Q. Did that committee have anything to do with the matter of that case after you became chairman of it?

A. Yes sir.

Q. What did it have to do with it?

A. Well, it had this to do with it; there seemed to be some legal advisors to secure and the prosecution of the case in general before the Commission.

Q. In the course of your official position, did you make any examination or investigation or inform yourself with respect to the matter pertaining to the comparative rates on live stock and the product of live stock from the Missouri River to Chicago?

A. I satisfied myself in reference to that matter.

Q. Did you do that by informing yourself in regard to the facts?

A. Yes sir. My conclusions were reached partly from information secured from others and partly in reference to my views of the matter in general.

Q. State what your opinion is in reference to the matter of the comparative rate on live stock and its product from the Missouri River to Chicago, in that connection, stating what you think
2137 the relation of the rates ought to be and give your reasons therefor?

A. Judge Cowan, did you say to state my opinion?

Q. Read the question.

(The pending question was then read.)

A. My opinion in reference to the rate on live stock and packing house products is that at least the rate on live stock should not exceed the rate on packing house products; and the reason is that it is more unreasonable to me that the raw material should have a higher rate than the finished product.

Q. Why?

A. Simply because there is the most difference, almost the difference between shipping the products and the live stock that there is between junk and a carload of stoves. I don't know what the difference would be, but a carload of dressed meat would usually comprize forty or fifty steers or the carcasses of forty or fifty steers, whereas in live stock the number seldom exceeds 25. In live stock there certainly is a lot of fertilizer, fertilizing element, horns and hoofs and hair that would not compare with the finished product.

Q. Have you in connection with your official position and such investigations as you have made, ascertained whether the shipper of the dressed product has any advantage under the existing
2138 rates of freight, over the shipper of the live stock, from the Missouri River?

Mr. SEVERANCE: Simply state now whether you have arrived at any opinion and not what that opinion is. When he gives that opinion I want to object to it.

The COURT: The question is whether you have such an opinion, an opinion on that subject?

A. I have an opinion.

Mr. COWAN:

Q. Now state what it is.

Mr. SEVERANCE: I object to that as incompetent, and as asking for a conclusion, and as there is no foundation laid for it.

A. My opinion is that he has a decided advantage.

Q. In what way, explain it.

A. Just simply because as I have already stated, he ships it in a concentrated form and instead of 25 animals, he certainly could get 40 or 50 in there, the carcasses of 40 or 50, shipping it in a concentrated form.

Q. What advantage has he in the matter of the rates?

A. That I have half on my own knowledge and half of general hearsay. From the Missouri River points on live stock, 23½ cents, and on dressed meat. I have never shipped any, and I would only know that by hearsay.

Q. Well, is it greater or less than the live stock?

A. 18½ cents I am told.

Q. How does that give the dressed beef man an advantage
2139 over the shipper of live stock, wherein does the advantage lie in the matter of the rate which you have spoken of. You have spoken of the difference of the quantity.

A. Yes sir.

Q. Now, what does the advantage consist in if there is an advantage?

A. The advantage is that he has five cents per hundred pounds and he ships the finished product and concentrates it and ships a great many more animals.

The COURT: That is the same answer.

Mr. COWAN:

Q. Well, suppose a man comes in to the Missouri River with a bunch of cattle, one carload, and there is a buyer there who is buying cattle, and shipping to Chicago, and there is a buyer who is buying cattle to kill, and shipping the carcasses to Chicago. Can you explain wherein either has the advantage over the other upon the rates that you have named?

A. I should think that the gentleman that had the one carload shipped to Chicago would be at a decided disadvantage. He would have to pay five cents higher rate to begin with. He has to ship the raw material. The packer that would buy that carload there could put into a carload with that, probably a good deal more and ship it to Chicago at a less rate.

Q. Do you know whether it has had any effect upon the ship-

ments from the Missouri River to Chicago, that this differ-
2140 ence in the rate has been made. Do you know whether that has produced any effect?

A. My knowledge in that direction is very limited. I know of a few men who were engaged in the traffic, oh, four or five years ago. No, I will not be specific about that. I know that a few years ago they were in the traffic and since the inauguration of the present rates they have gone out of the business.

Q. In what traffic?

A. Cattle.

Q. The traffic in cattle how? Killing them, or buying them, or selling them, or shipping them or what?

A. They were speculating in cattle at that time, buying them at the river points, and shipping them to Chicago.

Q. Has that sort of business declined or not within the last four or five years?

A. So far as my information goes it has gone out of vogue entirely.

Q. Do you know what has caused that?

A. When it comes to absolute knowledge I have none.

Q. Are you a shipper of cattle yourself?

A. I have been a shipper of cattle for 25 years.

Q. Do you know who beds the cars out in Iowa, in that country this side of the Missouri River?

A. I have never shipped any cattle out of Iowa, I think. I have shipped them out of Missouri, but my operations have been confined to the State of Illinois.

2141 Q. That is all unless there is some other point that you wish to testify about. I have had no opportunity to talk with you.

A. No sir.

Cross-examination by Mr. RANSOM:

Q. Who went out of business on the Missouri River as speculators, after these rates went into effect?

A. A gentleman by the name of Meyer.

Q. Where did he do business?

A. He formerly bought at Kansas City and Omaha and shipped to Chicago, what is commonly known or popularly know as a speculator.

Q. You don't know why he went out of business?

A. In my other answer I said I did not.

Q. You don't know of any one that did go out of business in the last two, or three or four years, why they went out of business, do you?

A. No sir.

Q. Do you know whether the number of cattle received at the stock yards here in Chicago in the last three years has decreased or increased as compared with former years?

A. Inside of what time?

Q. In the last two or three years as compared with two or three years previous to that?

A. My information is that the receipts have increased.

Q. Increased?

2142 A. Yes. I don't study statistics very closely, but that would be my notion of it.

Examination by Mr. DAWES:

Q. You stated that a number of men had gone out of business for reasons that you don't know since the change of rates. What change of rate do you refer to?

A. The reduction on the packing house products.

Q. What was the rate on packing house products prior to the reduction?

A. In one of my answers this afternoon I told you that I did not know what it was now, except by hearsay, and the other would be just the same way.

Q. Do you know what the rates have been on live stocks in the last eight or ten years?

A. Not dating that far back.

Q. Do you know whether there has been any change in those rates?

A. I think there has been occasional changes from Kansas City to Chicago.

Q. But a temporary change?

A. Yes sir, temporary.

Q. You know, do you know, that, as a whole, there has been no change in those rates? I mean they have averaged practically the same right along?

The COURT: From here to Kansas City?

Mr. DAWES: Yes.

A. Well, now, from Omaha, and those points out there, I know of no change that has taken place in the last thirty

2143 years.

Q. Do you know on what rate the cattle are carried from Missouri River points to Chicago?

A. 23½ cents.

Q. Cattle coming from Missouri River points to Chicago, through cattle?

A. No sir, I don't know how that division is made, and yet we have received some from Nebraska and some from Kansas.

Q. You know, do you not, that they are carried on a rate very much less than 23½ cents and going down as low as 13 or 14?

A. No sir, I don't know that.

Q. And as low as 12 cents?

A. I don't know that.

Q. You know, do you not, that they have been carried at a proportion of the through rate and that the proportion applicable from the Missouri River to Chicago is very much less than twenty cents?

A. No sir, I don't know that.

Q. How long since you have had knowledge of cattle being

shipped from Missouri River Points to Chicago, calling Missouri River the original point of shipment?

A. Now, let me explain to you that prior to six or seven years ago, my operations were confined in the stock yards here to hogs, and that in the last six or seven years my attention has been called more particularly to cattle, and it is only since that time that I have had any occasion to notice the rates.

2144 Q. Do you as a matter of fact know very much about the rate question? That is the comparison which you have endeavored to institute?

A. I would not regard myself as an encyclopedia on that subject.

Q. Or as very much of an expert from the consideration you have given it yourself.

A. No sir, I explained how I arrived at it.

Q. Well, I think you are very fair, sir.

The COURT: Call the next witness.

2145 CHARLES W. BAKER, called as a witness on behalf of the Petitioner, having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. State your name, and your business, and where you reside?

A. My name is Charles W. Baker. I am Secretary of the Live Stock Exchange and reside in Chicago, Illinois.

Q. Were you Secretary of that Exchange at the time this suit was brought before the Interstate Commerce Commission?

A. I was.

Q. How long have you occupied that position?

A. Ever since the formation of the Exchange, in 1884; twenty-one years.

Q. Are there other live stock exchanges at the different live stock markets of the country besides Chicago?

A. Every prominent live stock market in the country, has a live stock exchange.

Q. What are those markets which have exchanges?

A. Buffalo, Pittsburg, Cleveland, Indianapolis, St. Paul, Sioux City, Omaha, St. Louis, Kansas City, St. Joseph, Fort Worth and Denver. I guess I have named them all.

2146 Q. Is there an organization called the Live Stock Exchange at each of these markets?

A. Yes, sir.

Q. Is that similar to the organization at Chicago?

A. Yes sir.

Q. Composed of whom?

A. They are composed of buyers and sellers and feeders and shippers, resident at those markets principally.

Q. What are the commissions usually charged at those markets?

Mr. SEVERANCE: I object to that as incompetent and immaterial at any place except Chicago.

The COURT: The objection is sustained.

Mr. COWAN: That is one of the elements of the cost of marketing the live stock. It is not immaterial to show that it is the same elsewhere as it is at Chicago. It is one of the conditions.

The COURT: You have proved it already as to the other points.

Mr. COWAN:

Q. Do all these exchanges have any general organization?
A. Yes sir.
Q. What is it?
A. The National Live Stock Exchange.
Q. Do you hold any position in that Organization?
A. I am its Secretary.

2147 Q. In connection with your official position, have you made any investigation or informed yourself relative to the questions as to whether there is a preference or advantage, in the matter of the difference in rates on live stock from the Missouri River to Chicago, and with reference to the reasonableness of such preference or advantage as may exist.

A. I have studied the question somewhat.

Q. Do you know what the relative rates are from the Missouri River to Chicago for live stock and its product?

A. I understand the rate on live stock is 23½ cents, and on packing house products, 18½ cents.

Q. Assuming that in addition to the 18½ cent rate, that there is a 20-cent local rate to Chicago on the packing house product and dressed meat, state whether or not in your opinion the difference in the rate gives any preference or advantage to the shippers of the product as against the shippers of the live stock?

Mr. SEVERANCE: I object to that as asking for a conclusion and no foundation has been laid.

The COURT: The objection is sustained for the present. You better show what he has done in the way of qualifying himself.

Mr. COWAN:

2148 Q. State in detail Mr. Baker, what investigation you have made of the subject, what study you have made of the subject.

A. Well, as Secretary of the Exchange, I have necessarily been more or less familiar with the working of all its committees and all its officers. I have, in connection with its officers and representatives, investigated these subjects very carefully, as much so as my time would permit and tried to keep myself thoroughly posted and advised as to the situation.

The COURT:

Q. Have you studied the railroad reports?

A. The railroad reports and rates and testimonies and hearings and litigations and everything I could to qualify myself to fill the position I occupied.

Mr. COWAN: Now read the original question.

(Previous question read, commencing as follows: "Assuming that in addition to the 18½ cent rate that there is a 20 cent local rate to Chicago")

A. It does.

Q. State whether or not in your opinion that advantage is a reasonable or an unreasonable one?

Mr. DAWES: I object to that your Honor. I think the question of the reasonable character of the advantage or disadvantage is a judicial question.

The COURT: The objection is sustained.

2149 Mr. COWAN: If the objection is sustained on the ground upon which it is made, I desire, if the Court will permit me to call attention to the fact that the Supreme Court of the United States, in the case of the Texas Pacific Railway Company against the Interstate Commerce Commission, one of the very first cases that went before the Supreme Court, in reviewing the English decisions upon the subject, giving a review and history of the Interstate Commerce Act, lays it down as a rule absolutely that the question of the reasonableness of the rate, the question as to whether or not a preference is an undue preference or not, are wholly questions of fact and not questions of law. Now, I am asking the witness whether this is reasonable or unreasonable, not with a view to obtaining his opinion on a question of law, as the objection seems to indicate, as I understand, but to get his opinion as a matter of fact.

The COURT: I don't believe his opinion would be of much value unless he gives facts to sustain it. I am willing to hear why he thinks it is unreasonable.

Mr. COWAN: I will follow it up by that. I will change the form of the question.

The COURT: I assume he does, otherwise he would not have brought this suit.

Mr. COWAN:

2150 Q. Mr. Baker, state whether in your opinion the difference in the rate is a reasonable or unreasonable one, and in that connection state your reasons for the opinion you may give.

The COURT: Now state the reasons for your opinion that there is a difference.

A. Before stating my opinion as to whether there is a difference?

The COURT: You have stated there was. Now, give your reasons for it.

A. Well, to illustrate—I best can state my opinion in that way: A producer lands his load of cattle in a Missouri River market, Kansas City, to illustrate, and offers them for sale on the market. His competition is largely restricted to the slaughterers on that market, because a live cattle shipper, or he, the shipper himself could not ship those cattle on to Chicago and receive as many gross dollars for them as he could by selling them in Kansas City, and the slaughterer can ship that product on and can put it in competition with similar stuff in Chicago.

Mr. COWAN:

Q. Why couldn't he?

A. On account of the difference in the rate. The shipper of live cattle would send forward 24,000 pounds, at 23½ cents a hundred. The slaughterer in sending forward that amount of cattle, or what would make that amount of beef, would send forward less
2151 than 60 per cent. of 24,000 pounds at 18½ cents a hundred, and that beef would be in competition with the beef of the live cattle shipper who shipped it from Kansas City and slaughtered it in Chicago.

Q. What would it cost the live stock shipper per head assuming that there are 20 head to the car, and they weighed 1,000 pounds, to land his animals here, and what would it cost the shipper of the dressed product to land the product of those cattle here, or in any other form. If you have got the figures, state the relative difference in cost.

A. I have figured that out. A 1200 pound animal at 23½ cents a hundred, would cost, exclusive of shrink and necessary expense incident to his care and so forth in bringing them forward $2.82 to land them in Chicago. According to the general percentages of dressing of animals, and being very liberal, that 1200 pound steer would dress 700 pounds, which, at a 20-cent rate, would be $1.40 to land that beef in Chicago, the slaughtering conditions at Kansas City and Chicago being equal, would make a difference in favor of the Kansas City slaughterer of $1.42 per head.

Q. What about the other product besides the dressed meat?

A. The hide and other offal, do you refer to?

Q. All of the other product of the animal besides the dressed meat?

2152 A. There is some waste you understand. In killing a 1200 pound bullock, you don't get 1200 pounds of results.

Q. What do you get?

A. Well, if you weigh the contents of the intestines, I suppose you get somewhere about 86 or 88 per cent., together with all the other offal, but there is an absolute weight.

Q. Now, under the actual conditions, do you know whether or not the other products, that is the fertilizers made out of the bone, the fertilizer that is made out of the offal, do you know whether that is shipped to Chicago, or whether it is shipped to other points?

A. No, I don't know of my own knowledge.

Q. Have you any definite information with respect to the total product of the live animal in point of weight, as compared with the weight of the live animal. By total product, I mean the dressed meat and all of the packing house products and other stuff?

The COURT: By-products.

Mr. COWAN:

Q. By-products, yes?

A. About 90 per cent.

Mr. DAWES: Does that include the cooperage on the product?

A. No, sir.

Mr. COWAN:

Q. Where did you get that information Mr. Baker?

A. From practical experience slaughtering cattle.

2153 Q. Figured on the basis of 90 per cent., how much product and dressed meat have you got?

A. What is that question?

Q. 1080 pounds, 90 per cent. of 1200 pounds is 1080?

A. It is 10 per cent. less, yes.

Q. Now, answer the question as to whether in your opinion, the preference the shipper of the dressed meat has is a reasonable or unreasonable one?

Mr. DAWES: I object, your Honor. You have excluded that very question.

The COURT: I think I have. I sustain the objection.

Mr. COWAN:

Q. Are you acquainted with matters pertaining to the shipment of live stock from St. Paul to Chicago?

A. Slightly.

Q. Do you know what has been the prevailing freight charge on live stock shipped from St. Paul to Chicago?

A. On cattle?

Q. Yes.

A. Well, I do not of my own personal knowledge.

Cross-examination by Mr. BAXTER:

Q. Do I understand Mr. Baker, that the facilities for

2154 slaughtering at the Missouri River points are as good as they are in Chicago, or substantially as good?

A. I will answer that by saying, yes, except as to capacity.

Q. You mean as to the number of hogs, or animals that can be slaughtered?

A. Yes, sir, I think in the case of St. Joe, they are superior to the average of Chicago on account of more modern construction and machinery.

Q. Now, I am not clear that I understood Mr. Cowan's original examination and you will pardon me if I repeat anything that he has already brought out. What I am trying to get at here is, take a beef of any weight that you may see proper to assume; that beef is slaughtered at the Missouri River or Chicago. What per cent. of the live weight of the animal is absolutely lost, that is, does not reappear in the shape of dressed meats, or products of blood or bone, or horn, or foot, or anything, it is gone?

A. Well, that would depend upon the house at which it was slaughtered and the care that was exercised in saving all parts of the animal. To illustrate: The blood and the contents of the stomach are no inconsiderable part of the weight of the animal. In many houses, it is practically lost, in others, it is saved—it makes a difference, therefore, in which house an animal is slaughtered as to how much weight is retained of the original.

Q. Take the case where the animal is slaughtered by the
2155 most approved methods and by the most scientific managers, what per cent. of the live weight would be absolutely lost?

A. Well, anyway, 5, perhaps 10 per cent. It is pretty hard to tell definitely, cattle vary in their shrinkage and beef.

Q. Yes, I suppose so. I am just trying to get some reliable figure in the record. Now, take the average method of slaughtering on the Missouri River, not the best or the worst, but the average method of slaughtering at the Missouri River, and what per cent. of that beef would be absolutely lost?

A. Well, I am not familiar with the weights and figures at the Missouri River establishments.

Q. What would they be here?

A. Well, I should think about 90 or 92 per cent. would be saved.

The COURT: What is that?

A. 90 or 92 per cent. of the weight of the animal would be saved in beef, butter fat, casings, horns, feet, tails, switches, hides and all the other parts of the animal, contents of the stomach.

Q. Now, give me the per cent. of live weight of the hog that would be absolutely lost in the act of slaughtering?

A. I don't think I can do that, sir.

Q. Now, the products of the beef, take that. I under-
2156 stand the dressed beef, the dressed meat as it is called here in this tariff, to be the principal product of a beef, is that correct?

A. The carcass you mean?

Q. Yes, sir.

A. Yes, sir.

Q. That is transported in cars where it is hung up on hooks, as I understand it?

A. In quarters, yes sir.

Q. Now, the remainder of the meat, what becomes of that, is it packed in boxes or barrels, or what is done with it?

A. The remainder of the meat?

Q. Yes, of the beef?

A. Of the meat of the beef?

Q. Yes. You have accounted for the quarters; they are hung up in the car and transported as dressed meats.

A. Do you refer to the tongue, and the heart, and the liver and so forth.

Q. Yes, what is pickled beef?

A. That is made from the carcass.

Q. Is that part of the product of the beef or independent of the quarters?

A. No, sir, it is part of the quarters.

Q. Just a different mode of shipping it?

A. Yes, sir. That is, as I understand, packing house products, and the other is fresh beef, fresh meat.

Q. So much of the products of the beef as are not transported as quarters are made up into smaller pieces, or even the quarters themselves maybe?

A. Except the tails, tongue and liver. The liver is very
2157 seldom shipped on account of its spoiling and it is usually used locally for sausage, making sausage.

Q. Now, those products of beef that are not transported as quarters, what rates do they pay in their movement from the Missouri River to Chicago, the packing house rate?

A. I so understand it, yes sir, except—the manufactured products, I do not refer to the hides, horns, hoofs and that part of the animal, I refer to the meat part, the edible part of the animal, is moved at the packing house product rate. I don't know whether the others do or not, I am not advised in regard to that.

Q. You don't know whether the other product pays the same packing house product rate or not?

A. No, I do not, the hides and hoofs and so forth.

Q. Then a party who sold a steer weighing a thousand pounds at Kansas City, if he shipped back the product of that animal, he would ship back within 8 per cent. of the live weight of the animal, would he not?

A. I don't quite catch your drift, ship it back?

Q. For instance he sells, or has his animal slaughtered at Kansas City?

A. Yes sir.

Q. And he ships the product back here to Chicago in competition with the packers here. I understand that to be the ground of your complaint?

A. Yes sir.

Q. Now, wouldn't he pay freight on the live weight of the
2158 steer minus 8 or 10 per cent. of that?

A. No, I think not because all of the product of the slaughtering does not move to Chicago, or elsewhere out of Kansas City in that shape.

Q. Well, how much of it. That is what I am trying to get at, how much of it is lost there at Kansas City and that does not pay any further freight rate?

A. Well, I said I thought about 8 per cent. was absolutely lost. There is part of the product, the by-product of the slaughter of a steer animal that does not move in the same direction that the carcass and edible portions would.

Q. I am not talking about the directions, we are settling the exigencies of the case, and we want to know how much of it is lost that never pays another freight rate, I don't care whether the freight rate be paid from here to Chicago or paid in some other direction.

A. What I mean by that Judge, is the market for hides which is a very important part of the animal in weight and so forth, is practically the same at Kansas City as it is at Chicago.

Q. Well, if it was shipped from Kansas City, it would pay freight, wouldn't it?

A. Oh, presumably, yes sir.

Q. So that within 10 per cent. of the live weight of an animal, all of the product of the animal would pay a rate of freight either to Chicago, or in whatever direction they may happen to move?

2159 A. No, I am not prepared to say that, I have no knowledge on that score.

Q. Well, haven't you as much knowledge on that point as you had upon the other?

A. No, I don't think I have because I have investigated the other and I have not this.

Q. Well, how can you state then, that there is a disadvantage and a prejudice against Chicago based upon a difference between the rates of the live animal and the rate of the product, when you don't know what that difference is?

A. Because the by-products of the animal are practically of the same value in Chicago and Kansas City. The shipper in one instance sells his beef, you may say his beef, because it is his beef, the carcass beef plus a 20-cent rate, if you please, to Chicago, to put him on a parity with his live cattle, which he ships to Chicago and has slaughtered here on a 23½ cent basis.

Q. Well, now, if I own a farm in Western Iowa between Chicago and Kansas City, at a point equi-distant between Kansas City and Chicago, and I have raised a car load of cattle or hogs, and I can ship them to Kansas City and there dispose of them on the basis that you *not* indicate, that the entire weight of the animal minus 8 or 9 per cent. can be marketed as profitably at Kansas City as they can in Chicago, can you suggest why I should not have the right to choose between the two markets.

2160 A. No sir, you should have that right.

Q. Well, the rate from a point equi-distant from Chicago to Kansas City is the same to the one as to the other city, isn't it, upon the live animal. If I live half way between here and Kansas City, can't I ship as cheap to Chicago as I can to Kansas City?

A. I don't know. I should presume so, but I don't know.

Q. Then if I pay the same freight rate to each city and can dispose of my animal on equally favorable terms in each city, why shouldn't I have the right to make a personal selection between the markets?

A. You should have.

2161 Q. The first witness——

A. Mr. Buell——

Q. He was on the stand the other day and I asked him if it was possible that the Live Stock Exchange in Chicago, that had been in operation 30 years, I believe, had never been able to grade the cattle and hogs that were offered for sale here upon any intelligent basis, so that when the reports from this market were telegraphed abroad every other market in the United States would be able to know what prices would be ruling in Chicago, and I understood him to say that no such system of grading as obtains in cotton and wheat and grains had ever been invented, or could be invented here in Chicago. Now I hand you a copy of the Chicago Daily Drovers' Journal, dated, Union Stock Yards, Monday, October 2, 1905; is that paper a generally accredited journal, and regarded as authentic and reliable by people who deal in live stock. (Handing said Journal to the witness.

A. It is.

Q. Will you please look at the places marked with ink and read them into the record and explain what they mean?

A. Yes, sir. This is the Chicago Daily Drovers' Journal, published at the Union Stock Yards on Monday, October 2nd, 1905. Under the head "cattle" I find the following:

	Common to thin grassy steers	$3.50 to	$3.75
	Inferior and rough beef steers	3.75 to	4.00
	Common to fair corn-fed steers	4.00 to	4.35
2162	Fair to medium corn-fed steers	4.40 to	4.60
	Good to choice corn-fed steers	4.70 to	5.35
	Choice to fancy finished beeves	5.40 to	6.25
	Export steers, 1150 to 1450 lbs	4.75 to	5.60
	Poor to choice yearling steers	4.10 to	4.85
	Fancy finished corn-fed yearlings	4.95 to	5.75
	Corn-fed Western steers	4.25 to	5.90
	Northern-fed Texas steers	3.40 to	5.40
	Distillery steers	4.75 to	5.65

Q. Under what general head would that list of grades you have read be found?

A. Cattle.

Q. Under the general head of cattle?

A. Yes, sir.

Q. Is there any sub-head?

A. Yes, sir.

Q. What is that?

A. Referring to "Butcher stock," I find the following: "Revised quotations"—do you wish them read?

Q. If you please.

The WITNESS: "Revised quotations for native Butcher stock follow:

	Beef cows, inferior to fair	$2.35 to	$2.50
	Beef cows, medium to good	2.60 to	2.80
	Beef cows, choice to fancy	2.90 to	3.50
	Export cows, fair to good	3.00 to	3.75
	Heifers, inferior to fair mixed	2.00 to	2.55
	Heifers, good to choice mixed	2.60 to	3.20
2163	Heifers, good to choice selected	$3.25 to	$4.25
	Heifers, extra prime selected	4.30 to	5.00
	Stags, poor to choice mixed	2.75 to	3.60
	Stags, good to fancy selected	3.75 to	4.25
	Bulls, inferior to fair light	1.90 to	2.25
	Bulls, common to good bolognas	2.25 to	2.40

Q. What is meant by "bolognas"?

A. Sausage bulls.

	Selected bolognas	$2.45 to	$2.55
	Bulls, fair to choice butchers	2.55 to	3.10
	Bulls, fair to choice export	3.10 to	3.65
	Bulls, distillery-fed stock	3.65 to	4.00

Under the head "cattle" is still another classification known as "Western Rangers." There are no quotations on that. The paper has confined itself to quoting actual sales and giving the names and brands of the owners—quite a list of sales here.

Q. Is there any similar information in that paper with reference to the manner of classifying hogs?

A. Yes, sir.

Q. Will you read that?

A. In the same paper I find under the head "hogs":

Bulk of packing grades	$5.51 to $5.40
Bulk of shipping grades	5.45 to 5.65
Inferior to fair mixed	5.00 to 5.20
2164 Good mixed, 210 to 250 lbs	$5.25 to $5.35
Fair to choice medium weights	5.35 to 5.50
Good to fancy selected butchers	$5.47½ to $5.65
Rough heavy packing—odd lots	$4.60 to $4.85
Poor to choice heavy packing	4.90 to 5.20
Selected heavy packing	5.25 to 5.35
Fair to fancy heavy shipping	5.40 to 5.65
Poor to choice light bacon	5.35 to 5.50
Fancy selected light shipping	$5.52½ to $5.60
Grassy light weights	$5.00 to $5.30
Selected pigs, 100 to 140 lbs	4.90 to 5.55
Mixed pigs, 120 lbs. and under	4.30 to 4.85
Stags, according to weight	3.75 to 4.50
Boars, according to weight	2.75 to 3.25
Governments, throw-outs	2.00 to 4.25.

I might say, in connection with this, of course, all those quotations are not generally used in quoting the market, simply in the most general terms.

Q. Now I suppose it is true—take this grade, "Fat cows, choice to fancy," two purchasers, members of your Live Stock Exchange, living here in Chicago and looking at the same animal, might differ as to whether a particular animal would class as "choice" or "fancy," might they not?

A. Very materially.

2165 Q. And so they might differ as to whether beef cows were inferior or fat?

A. Well, not so much.

Q. Now my question to you is this: suppose you were a member of the Live Stock Exchange at any of the Missouri River markets; that you had followed the business for twenty or thirty years; that you were an experienced man in the cattle business; if those quotations which you have read to us were telegraphed from Chicago to Kansas City would you have any difficulty in knowing within reasonable bounds how the market stood at Chicago for that day?

A. No, sir.

Q. Would you have any more difficulty than a cotton buyer in

New Orleans would have if he had telegraphed to him the prices of the different grades of cotton published in New York?

A. Yes.

Q. What would be the difference?

A. A certain brand of cotton, like a carload of wheat, has its stamp of authority on it that makes it uniform throughout the world. A description of a live animal such as I have just read in the paper is not so definite and positive as in the case of grain or cotton, but is subject to a slight variation, I should say not to exceed 15 or 20 cents per hundred pounds.

Q. Isn't there exactly the same variation in the grading of cotton or the grading of wheat or any other commodity that is dealt
2166 in in these large markets or which have authority, as at New York in the cotton market?

A. I am not advised as to cotton. I know that grain coming to Chicago is inspected by the Board of Trade inspector before going to an elevator and a certificate is given for a carload of grain, or the amount involved, grading a certain number. That is definite and positive; there is no variation of a fraction either way from that. It is number one or number 2.

Q. Suppose your market reports show that the price of wheat, number 2, is $1.00 a bushel?

A. Yes, sir.

Q. Would a man out at Kansas City, or down at Mobile, Alabama—wouldn't he know what that class of wheat was selling for in Chicago?

A. Yes, but he would have to take the chance of his grading the same way. He would have to use his judgment.

Q. So the man at Kansas City would have to take the chance of seeing that the animal he is examining falls within the grade described in this paper?

A. Yes, sir.

Q. But assuming his experience in the business will enable him to do that, will not your daily quotation from Chicago, published abroad, enable the purchaser of cattle in all the cattle markets, to approximate very closely to what the market is doing here?

A. Yes, sir, that is true.

The COURT: Still another suggestion might be made. If
2167 the live stock market changed from any other market——

The WITNESS: Than the markets he has mentioned?

The COURT: Yes.

The WITNESS: I don't know that I am competent to mention that.

The COURT: Suppose the market is high today, 10, 15, 20 cents or half a dollar higher than elsewhere, wouldn't they flood the market so fast it would go down?

The WITNESS: Our market at the Chicago Stock Yards on cattle has but one fluctuation a day.

The COURT: In two or three days?

The WITNESS: In two or three days it may change two or three times.

The COURT: Isn't that one of the complaints that is made about

the Stock Yards—to manipulate the market, advertise that it is high today; then when they get the stuff in here, the stock in here they claim that they put it down on purpose?

The WITNESS: Yes, that is true, like a great many other complaints, made without foundation.

The COURT: Isn't this much true, that it will go down on account of supply and demand?

The WITNESS: Supply and demand govern our prices at the Chicago Stock Yards.

2168 Mr. BAXTER:

Q. Addressing myself to the theory of the complainant, that the market at Chicago governs the world, or at least the Western continent, if you are located in Chicago and from these market quotations can closely approximate what the Chicago market is doing, does not a man who lives near Kansas City have a great advantage in shipping to the Kansas City market rather than coming to Chicago, because he can rush his animals into Kansas City and get the price you are paying there, whereas it might take him a day to get it in Chicago, and in the meantime the Chicago market might drop on him; the nearer the man is to the market, if the Kansas City market is governed by the Chicago market, is not his situation better to get the price that is quoted for today in Chicago than if he lives three hundred miles from Chicago and has to bring them here?

The COURT: What do you say to that?

The WITNESS: Well, your Honor, I haven't stated that the Kansas City market was governed by the Chicago market, I think.

Mr. BAXTER:

Q. What is your opinion upon that?

A. Well, I think that the Chicago prices have a great deal to do with the prices paid at Kansas City, but there are a great many influences which control.

Q. Well, isn't the chief of that supply and demand?

2169 A. Why I think the prime factor is controlling prices at Kansas City is supply and demand.

Q. That operates out West as well as it does here, doesn't it?

A. Yes, sir.

Q. And a man, therefore, is just as apt to catch a short market and get a high price as he is here, isn't he?

A. I think so.

Q. If, then, these quotations enable purchasers in the West to know approximately what the market at Chicago is doing, why is it necessary for people to send their animals here to Chicago to be sold? Why can't they get the same, or substantially the same prices out there as they can here?

A. Because it is very generally known and understood among not only the producers of the United States, but the shippers of the country that Chicago has the best market in the world for the sale of live stock on account of the great competition we have at this place, and they are anxious to avail themselves of that competition. They

are better satisfied to take the Omaha price plus the loss of coming to Chicago and the cost of transporting by rail; they are better pleased to take that price here in Chicago than they would be in Omaha, feeling that they have got the full strength of the market by the greater competition they get at this market than they would at the Omaha market.

2170 Q. The fact that everybody thinks that way is one of the reasons why your market is so frequently flooded, everybody rushing in here to get the benefit of that supposed advantage conferred by the supposed great competition here, isn't that true, and don't you have as much gluttin- of your market as there is in any market of the United States?

A. Well, we frequently have gluts at the stock yards. We have a committee that has been working on this proposition the last year trying to make a uniform five-day market. It has grown into a custom to ship principally the cattle for the Chicago market on two days of the week, Mondays and Wednesdays, thereby causing a glut on those days, and the consequent depression of prices, and practically no cattle whatever on Tuesdays, Thursdays and Fridays. A year ago our exchange organized a committee to take up this matter and get in touch with the country and try and convince them of the great error in judgment in all seeking to market their offerings on two days. To a large extent this committee has been successful in equalizing and distributing receipts over the five days, but not to a point where they hope to arrive.

The COURT: Suppose they brought their cattle in there on Thursday and Friday; would there be anybody there to buy them?

The WITNESS: Yes, sir, yes, sir, the buyers are there on all days, and the committee has especially provided that the cattle

2171 be taken care of at any time they arrive.

Mr. BAXTER: That is all I have to ask.

The COURT: About this competition, how is there more competition in Chicago than there is in Kansas City or St. Joe?

The WITNESS: There are more buyers.

The COURT: Who are they?

The WITNESS: I don't know that I can give you a list of them offhand. I can file a list here. I prefer to do that because I can give you a more complete list.

Mr. RANSOM: In doing that will you separately state as in regard to each of the markets on the Missouri River?

The WITNESS: That would not be in my own knowledge. I can write and secure it.

Mr. RANSOM: You know the packers who are doing business?

The WITNESS: I wouldn't confine myself to the packers. I can tell you the packers and where they are doing business now.

The COURT: Get the people who bid at these different Missouri river points?

The WITNESS: I know the packers. I can testify to that.

The COURT: Wait until you get your statement. Anything else?

Mr. SEVERANCE: I would like to ask a question, please?

2172 The COURT: Certainly.

Mr. SEVERANCE: Can you state whether there is more or less live stock shipped to Chicago from the 23½ cent zone that you have discussed or from the territory beyond the Missouri river?

The WITNESS: Not off-hand, no, sir. I can ascertain it.

Mr. SEVERANCE: Haven't you an opinion on that subject?

The WITNESS: Well, I wouldn't like to venture an opinion, when I can put my hand on the figures.

Mr. SEVERANCE: Have you the figures here in court?

The WITNESS: No, I have them in my office.

The COURT: You can bring them in the morning.

The WITNESS: Let me get that down.

Mr. SEVERANCE: Whether there are more cattle and hogs shipped *from* Chicago from the 23½ cent zone, this side of the Missouri river or from the territory beyond; that is I mean from——

The WITNESS: Any other territory?

Mr. SEVERANCE: What I want to get at is this: Hogs and cattle that are moved to Chicago on the proportional rate from the Missouri river towns, by reason of the fact they originate beyond the river.

The WITNESS: That would cover any other territory than the Missouri river in the 23½ cent zone.

2173 Mr. SEVERANCE: It wouldn't cover this side of the 23½ cent zone?

The WITNESS: No.

Mr. SEVERANCE: I want to find out whether there are more cattle moved to Chicago on the proportional rate, that is cattle originating beyond the Missouri or from the 23½ cent zone this side?

The COURT: Whether there is more on the other side of the river everywhere.

Mr. SEVERANCE: I want to see how this works out. The witness has been making some comparisons of rates.

The COURT: You may bring the figures.

Mr. SEVERANCE: I want him to make a comparison on the proportional rates that Mr. Ripley gave.

Mr. LYNDE: We can ask him some further questions then in the morning?

Mr. RANSOM: Did I understand you to say that the by-products of live stock in Chicago and on the Missouri river were the same as to price?

The WITNESS: I only offered an opinion in regard to that.

Mr. RANSOM: That is my understanding.

The WITNESS: Very closely.

Mr. RANSOM: How is that?

The WITNESS: I am not advised in regard to it.

2174 Mr. RANSOM: That is my understanding, but do you know why that is?

The COURT: What is your understanding? I didn't catch that.

The WITNESS: My understanding?

The COURT: Yes.

The WITNESS: That they are very closely alike in regard to price. I refer now to the coarse offal of the steer?

The COURT: The by-products, prepared where?
Mr. LYNDE: The same as on the Missouri river markets, as I understand it.
The COURT: The same price there and here?
The WITNESS: Practically so, yes. I don't say that they are.
Mr. RANSOM: Can you give the reasons for that?
A. No, I don't know that I can.
Mr. RANSOM: The price of the meat on the Missouri river, the finished product, is not the same as the price here in Chicago, is it?
The WITNESS: I don't know in regard to that. I am not advised as to the price of meats on the Missouri river.
Mr. RANSOM: Where do you understand the product on the Missouri river is marketed?
The WITNESS: All over the country, but principally east of
2175 the Missouri river.
Mr. RANSOM: Principally where east of the Missouri river, in Chicago?
The WITNESS: Oh, yes, as far as Liverpool and London.
Mr. RANSOM: Well, would the price on meat in Chicago, prepared product, be the same as it would be out on the Missouri river if the market was east of Chicago?
The WITNESS: I don't quite understand that.

(The question was read.)

Mr. RANSOM: Here is, say, a million pounds of meat in Chicago that have been prepared in Chicago——
The WITNESS: Yes, sir.
Mr. RANSOM: A million pounds of meat out in Kansas City prepared there?
The WITNESS: Yes, sir.
Mr. RANSOM: The market, we will say, is east of here?
The WITNESS: Yes, sir.
Mr. RANSOM: In Boston.
The WITNESS: Yes, sir.
Mr. RANSOM: Would the million pounds of product here be worth the same amount of money at the same moment as the product out on the Missouri river?
The WITNESS: To who?
Mr. RANSOM: To anyone that wanted to buy it?
2176 Mr. SEVERANCE: To the owner, in the market?
The WITNESS: I think the meat would be the same. I don't see why it should not be.
Mr. RANSOM: What do you understand is the rate on packing house product from the Missouri river to Chicago.
The WITNESS: Twenty cents local.
Mr. RANSOM: What is the 18½ cent rate you spoke of?
The WITNESS: That is a rate that has been applied to packing house products.
Mr. RANSOM: Applied to them how?
The WITNESS: It has been collected for transporting the stuff from Missouri river points to Chicago.

Mr. RANSOM: Then there is an 16½ cent rate to Chicago on product, and also a 20 cent rate?

The WITNESS: I presume so.

Mr. RANSOM: And the shipper can take his choice of whichever of those he wants to ship on?

The WITNESS: I don't know that he can.

Mr. SEVERANCE: Isn't that 18½ cent rate applied to shipments going East of the Illinois and Indiana state lines?

The WITNESS: You mean the pro-rate?

Mr. SEVERANCE: Yes.

The WITNESS: I presume very likely that is true.

2177 Redirect examination by Mr. COWAN:

Q. Mr. Backer, I want to ask you a question or two about that shrinkage of 92 per cent. Is it a fact or not that the packers, in putting up the offal into fertilizers, dry it out?

A. Yes, sir.

Q. Is it a fact that when they save the blood that they dry the blood and that it is manufactured and used, in one form and another dried?

A. Yes, sir.

Q. When you water the cattle when they come in to get their fill, does the packer can that and save that?

A. No, sir.

Q. Don't they dry the bones when they grind them up into fertilizers?

A. Yes, sir.

Q. Isn't it a fact that the carcass evaporates after it is skinned, so that it weighs considerably less constantly?

A. Yes, sir, 2 per cent. in three days.

Q. When you think of these things, don't you believe you are very much mistaken in your estimate in regard to the total gross weight of the product of a steer?

A. No, sir, not in the way I stated it.

Q. I don't want to argue it with you; I just want to call it to your attention.

2178 A. I want to tell you why, your Honor, if I may be permitted.

The COURT: Certainly.

The WITNESS: The question was asked me how much a twelve hundred pound steer would yield in the weight of everything at the time of slaughter.

Mr. COWAN: Not in my question.

The WITNESS: That is the way I understood the question; that is the reason I answered it the way I did, and I still add here to the position that it would yield 90 per cent., 88 or 90 per cent. Of course when you talk about dressed beef and manufactured product, that is entirely another proposition.

Mr. COWAN: I want to know what is the relative weight of a 1200-pound steer when it is put into the manufactured product, as it is shipped and marketed?

The COURT: Maybe he can figure that out better in the morning.

The WITNESS: I can give you the actual figures in regard to that. I have them in my office.

Mr. COWAN: That is what I thought, that you misunderstood my question.

The COURT: We will adjourn here and we can get the rest of this in the morning.

Mr. DAWES: Be kind enough to add the estimated cooperage, &c.

Can't you find that out so that we can have this question
2179 accurately determined, how much the whole dressed product weighs when shipped out?

The WITNESS: Yes, I will try.

Mr. DAWES: And get it on hogs.

The WITNESS: The cooperage you mean?

Mr. DAWES: Yes, the same question.

The WITNESS: All right.

Mr. SEVERANCE: Anything from the point at which the product is shipped out.

Adjourned until 10 o'clock A. M., October 5th, 1905.

2180 TUESDAY, *October* 5, 1905—10 o'clock a. m.

Court met pursuant to adournment.

Counsel present same as before.

Whereupon CHARLES W. BAKER, resumed the stand for further direct examination by Mr. Cowan, and testified as follows:

Q. On adjournment yesterday, you were requested to produce certain statements, as definitely as you could with respect to the matters of the traffic in the live stock at different points and with respect to the actual results in the slaughtering of cattle, and possibly some other figures that I don't recall. Have you prepared those statements which were requested of you?

A. So far as possible.

Q. Will you please offer them in evidence with explanations thereof, without further questions?

A. I may say at the beginning that I have made diligent search and effort to prepare such a statement as was asked for by Mr. Severance in regard to the movement of cattle to Chicago out of the 23½ cent zone, but I find upon consulting my figures at the yards
that it will be a matter of three or four weeks or a month,
2181 if I could prepare it at all. It would hardly be worth the effort because I have not the data from which to compile such a statement accurately.

Mr. SEVERANCE: All right.

The WITNESS: I would have been very pleased to have furnished it.

The COURT: You say you have not the data from which you could furnish it?

A. No, I could not furnish an accurate statement as to the movement of cattle out of the 23½ cent zone.

The COURT: Can you give a fairly accurate statement?

A. No, sir, I would not, I would not like to attempt it at all. I could furnish a statement of that but it would be very general, as to the receipts of cattle at Chicago from the different places, but that is not accurate. It is absolutely impossible to get an accurate statement of that nature.

Mr. SEVERANCE: Well then, Mr. Baker, if you will pardon one question in that connection, you would not be able to give us an estimate of the relative amount of cattle and hogs coming from the 23½ cent zone on the one hand and other points beyond the Missouri river which takes the proportional rate to the river towns, on the other hand?

A. I would not feel like filing a statement of that kind.
2182 I don't think I could compile a satisfactory one from my data.

Q. From your general knowledge of the situation would you be willing to give the court your opinion as to which is the greater of the two, or are the shipments east of the Missouri all so intermingled that you cannot pick out the proportion that comes from the 23½ cent zone so as to give any opinion at all?

A. Well, I should dislike to make a statement of that kind offhand. It might be subject to a great deal of criticism.

Q. I appreciate that you are perfectly fair.

The WITNESS: Now there seems to be a little misapprehension in regard to the statements asked me on direct examination yesterday in regard to the results of the slaughtering of a given weighted animal. I was subjected to some criticism by counsel for the complainant here for making the statement last night that I did; but he either asked the question wrong or I misunderstood him. My understanding of the question was, "What net results do you get from a certain steer, immediately after slaughter," and I said, "Ninety per cent. or thereabouts," and that I am prepared to verify by actual figures.

In my opinion a one thousand pound steer, slaughtered, will yield immediately after the slaughtering has been consummated, 91.8 per cent. of his weight but there will be an absolute unaccountable loss of 82 pounds.

2183 Mr. DAWES: That is a 1200 pound steer?

A. I am taking a one thousand pound steer just because it is easier to get the percentage. 48 to 72 hours after slaughtering, that product of 918 pounds will have shrunk to 830 pounds. That 830 pounds in the preparation for food and other purposes for which it is used, will have shrunk to 721 pounds or 72.1 per cent., which I figure to be the net results of merchantable product derived from a one thousand pound steer.

The COURT:

Q. What per cent.?

A. 72.1. I have the items here which go to make it up. In my experience there is 57 per cent. of that product shipped as dressed

meat and packing-house product. There is 42 pounds or 4.2 per cent. that is not shipped. There is 109——

Mr. DAWES: Pardon me, just a moment. Is that loss, or some product that is sold on the ground? What do you mean by "not shipped."

A. Well, I will tell you. It is substantially loss, it is stripe, melt, blood and excrement. There is 109 pounds of that 721 pounds that may be either used at home or shipped as packing-house product and by that I refer to the heart, the scrap, the liver, the hide, the tail and switch, the hoofs, the shanks and the head and horns.

2184 These figures are my own, derived from my experience in handling or slaughtering cattle for the last twelve years.

Mr. DAWES: While you are about it, that tripe, why don't you reckon that, doesn't that have any value? I thought you estimated that as a total loss.

A. No, sir, I said it was very seldom shipped.

Q. And that is true of the liver and all those other things?

A. Well, the parts that I have put in as dressed meat and packing-house product is the beef, that is the carcass, the butter fat or oleo, the casings, the tongue and cheek meats. They take the head and there is a whole lot of meat there. There is 6 pounds originally of fresh cheek meat to a thousand pound bullock, which is taken off of the cheeks and made into sausage.

Those are the products that are—Well, the tripe is practically worthless. There is very little of that shipped and that is generally thrown into the tank along with the melt, the peck, the blood and excrement.

The products that might be either consumed at home or shipped are the heart, the scrap, the fat, the liver, the hide, the tail and switch, the hoofs and shank, head and horns.

2185 I was asked to prepare a list of the buyers at the Union Stock Yards at Chicago and I desire to submit in response to that inquiry or request, an exhibit showing 35 packer and slaughter buyers and in that list of 35 I would say that I have only given the heads of the concerns. They number will probably embrace a great many more buyers.

To illustrate, in the three departments of cattle, hogs and sheep, I presume Messrs. Swift & Company have 20 buyers but they are only enumerated here as one buyer. Also a list of shipper buyers at the Chicago market, of 124. A list of scalpers, speculators and other traders of 101.

The COURT: Let me look at that.

Mr. COWAN:

Q. Mr. Baker, how does the number of buyers in this market compare——

Mr. DAWES: Were you not asked, as far as you could, to produce that list with reference to other markets?

Mr. COWAN: I was just going to ask him the question.

The WITNESS: Yes, when I got onto that subject I was going to explain that.

Mr. COWAN: (Question continued)—with the buyers on other markets.

A. Chicago has a great many more buyers than any market in the United States.

Q. What do they buy for and what is done with the live stock which they purchase?

2186 A. The buyers on the Chicago market?

Q. Yes?

A. A certain percentage of it is slaughtered here, manufactured into meat and commercial products, and others are shipped to different points for slaughter and still others are exported alive.

Q. What is the proportion of live stock sold on this market, which is slaughtered here, to that which is shipped from here elsewhere?

A. Well, I can best answer that from the official figures.

I have had compiled for a number of years, a statement showing the receipts and slaughter of cattle, hogs, sheep and horses—Well, the horses are not slaughtered—at the markets of Chicago, Kansas City, St. Louis, Omaha, St. Joseph and Sioux City.

Chicago, in 1904 received 40.9 per cent. of all the cattle marketed at these six markets, amounting to 3,526,684 head.

Q. Of what?

A. Of cattle. There were slaughtered in Chicago of those receipts, 42.2 per cent. or 2,176,936.

Q. What became of the balance?

A. The balance was shipped, either as I have indicated, to other markets for slaughter, export or back to the country as feeders.

Q. Now, when you say "shipped to other markets for slaughter" do you mean back to the Missouri river or do you mean eastward?

A. East.

2187 Q. Now can you state what percentage of the receipts of the Missouri markets for cattle are shipped and what percentage slaughtered?

A. Kansas City in 1904 received 2,163,471 cattle or 25 per cent of the gross receipts of the six markets I have indicated. Of the cattle received at Kansas City, there were slaughtered in that city, 1,111,284 head or 21.5 per cent. The balance of the cattle at Kansas City were disposed of the same as the balance of those at Chicago.

Q. Now, in what direction are the shipments from Kansas City?

A. East and north.

Q. Is there relatively a larger number of cattle shipped eastward from Kansas City, to the amount slaughtered, than there are from Chicago?

A. I don't know as I quite catch the question.

(Question read.)

A. Do you mean relatively to Chicago? I will have to make some figures on that.

Mr. SEVERANCE: That is, you mean in proportion to the number received at each place?

Mr. COWAN: That is what I am asking.

A. Well, I think you can figure that out from this exhibit, Mr. Cowan. I desire to offer this exhibit as a true and correct statement of the receipts at these markets.

2188 Q. Will you please again state the number received at Kansas City and the number slaughtered?

A. 2,163,471 received at Kansas City. 1,111,284 slaughtered.

Q. Then I understood you to say that they slaughtered only 26 per cent?

A. The slaughtering at Kansas City was 21 per cent.

Q. Of what?

Mr. SEVERANCE: Of the total receipts of all these markets.

A. Of the slaughtering at all these markets.

Mr. COWAN:

Q. But, of the number of head received at Kansas City, what percentage of them were slaughtered?

A. Well, I would have to make a computation from these figures.

Q. You had it at Chicago, you said 42 per cent. were slaughtered?

A. No, I say at Chicago——

Q. I will look at that (referring to exhibit.)

The WITNESS: There is 8,000,000 head of cattle received at these six markets; now, of that 8,000,000 head Chicago received 40 per cent. and when you come down here, here was the slaughtering at these markets, 5,000,000.

Q. You have not then a statement showing the percentage of the slaughtering at each place to the amount received at each place?

A. No, I have not compiled those statements.

2189 Mr. SEVERANCE: It is a mere matter of computation. Here are the figures right on the face of the paper here.

The WITNESS: Yes, that is true.

Mr. COWAN:

Q. Now, what is the largest feeder market, that is for the sale of feeders which are shipped out?

A. Kansas City, everybody acknowledges that.

Q. What is the largest market for the sale of those which are shipped out for the purpose of slaughter at other places?

A. Chicago.

Q. You may make such further explanation of that exhibit as you please, and then file it as a part of your testimony.

A. Well, of the total receipts of cattle in the year 1904, the St. Louis market received 12.5 per cent., the Omaha market, 10.9 per cent., the St. Joseph market, 6.8 per cent., and the Sioux City market, 3.8 per cent.

Of the number of cattle slaughtered at the six markets in the year, 1904, the St. Louis market slaughtered 14.2%, the Omaha market, 12.4%, the St. Joseph market, 8.3% and the Sioux City market, 1.4%.

I don't know that I have anything further to explain about this exhibit, and, if I am permitted, I desire to offer it as a part of my testimony.

(The statement so produced by the witness is marked "Baker Exhibit 1" and attached hereto.)

2190 Mr. SEVERANCE:

Q. Have you similar tables to that for other years than last year?
A. Yes sir.
Q. Will you bring them down here and let us look at them?
A. Yes sir.
Mr. DAWES: I don't suppose it is made up for this year.
A. No, we could not make it till the close of the year.
Mr. SEVERANCE: Well, during the last 6 or 7 years.
A. I don't think I have been doing it that long, but I will bring them, as far back as I have them.
Mr. COWAN: This other paper to which you referred, the names of the buyers, you may file that also as a part of your testimony.
A. Yes.

(The statement last above referred to by the witness is marked "Baker Exhibit 2" and attached hereto.)

Mr. DAWES:

Q. Does that show the cattle shipped out of those different markets, can you tell from that exhibit whether they are shipped for slaughter or for feed?
A. No sir, you cannot.
Q. You made the statement that more were shipped for slaughter from Chicago than from any other market; did I understand you right about that?
A. Yes sir.
2191 Q. Well, do your statistics enable you to determine that? I understood you to say that there were more shipped out from Chicago than from elsewhere for slaughter but can you state the destination of the cattle that were shipped out or the purpose for which they were used?
A. The only way I can do that is by taking the shipments and the purchasers and knowing the object for which they were purchased.
Q. But from this table——
A. It could not be told.
Q. That is your estimate or your judgment rather than your figures on the table?
A. Well, to illustrate, Shamberg & Son of New York never buy any feeder cattle.
Q. It is not that you could not with labor determine it. My question went to this point; you have not gone to that labor to sort them out so that when you say that more cattle are shipped out of Chicago for slaughter than any other market, that is your impression?
A. No, I have figures to that effect.
Q. Have you?
A. Yes sir.
Q. You did not produce them here?

A. No sir, I was not asked to.

Q. I would be glad to have you do that, covering also the other markets.

A. I don't know so much about the other markets.

Q. You said more were shipped from Chicago than any
2192 other market?

A. No, that was in regard to Kansas City. Mr. Cowan asked me what was the largest feeder market in the world and I said Kansas City. Chicago is the largest shipper of other cattle.

Q. Would you be quite sure that it was in percentages, that is that more were shipped——

A. In proportion to the receipts?

Q. Yes.

A. No, I would not want to say that without looking it up, but as to being the largest market, I am satisfied I am correct on that. Now you wish a statement——

Mr. DAWES: Oh, no, I don't care for it.

The WITNESS: All right, sir.

Mr. COWAN:

Q. What is the approximate relative value of the 570 pounds of a one thousand pound steer that is shipped, and the other products some of which may be shipped or may not, as shown in your statement?

A. Well, the 570 pounds that is sure to be shipped is the choicest and most valuable part of the animal, by a long ways.

Q. Say a steer was worth 4 cents a pound, $40.00 for a thousand pound steer on the hoof. What part of that $40.00 would be in the 570 pounds approximately?

Mr. DAWES: 57 cents, wouldn't it?

Mr. COWAN: No, it would be a good deal more than that.

2193 Mr. SEVERANCE: It would all depend on the relative value of the product.

Mr. COWAN: Undoubtedly.

The WITNESS: I would not attempt to give anything but a general answer to that.

The COURT: Well, give the general answer and let's get done with it.

A. Why, $28.00.

Mr. COWAN:

Q. Now, what is the balance that is worth the other $12.00.

A. The hide. The hide is very valuable at the present time, and there is the scrap and the liver and the tail and switch and hoofs and horns and heart.

The COURT:

Q. How about the casings?

A. The casings I have included in the shipment of the 570 pounds.

Mr. COWAN:

Q. What is the dressed meat worth per pound out of a steer that would sell for $40.00.

Mr. SEVERANCE: Can you give a correct answer to that?

A. No sir, I cannot, it is too indefinite.

Mr. COWAN:

Q. Well, you slaughter a great many cattle and ship them?

A. Yes.

Q. About what is the dressed meat worth?

2194 A. Well, take a 1200 pound bullock and it is worth $2.00 a hundred more dressed, in a general way, than it is alive. If it is bought at 5 cents, the meat costs you 7.

Q. If you had a thousand pound steer and he slaughtered out 550——

A. 530.

Q. —and it was worth 6 cents, that would be $33.00.

A. Well, you are talking about a thousand pound steer and a 1200 pound steer. The ratio don't apply as you get to the cheaper grade of live stock.

Q. Well, the 1200 pound steer is more representative of the quality of the steers that are slaughtered?

A. Yes.

Q. Take a 1200 pound steer which would slaughter 55 per cent.; that would be 660 pounds.

Mr. DAWES: 57 per cent. on a thousand pound steer.

The WITNESS: No, 55 on a thousand pounds.

The COURT: And 57 on 1200.

The WITNESS: He is talking just about the beef alone, just the beef.

Mr. COWAN: I understood you to say about 55 per cent. is what a 1200 pound steer would slaughter.

A. A 1200 pound steer will dress more.

Q. How much will they dress?

A. Right close to 700 pounds.

2195 Q. Assume it to be 700.

A. Yes.

Q. That would be worth 6 cents, if the steer sold for 4?

A. Yes sir, anyway.

Q. So that would be $42.00 out of the $48.00 which the steer would bring?

A. Yes. Right at this particular time, Mr. Cowan, to account for these figures, hides are exceptionally high and all this by product, when the steer is slaughtered, this by product is always put in at the market price, and that price taken off of the beef, and what is left is what it costs, so it don't cost as much at the present time of high prices or high priced by products, to kill a steer as it does ordinarily.

Q. Take the average for five or six years back, the average price paid for hides, then would your estimtae of $28.00 out of the $40.00 be correct?

A. No, I think it would be more.
Q. How much more?
A. Well, about $33.00 for the beef.

Mr. DAWES:

Q. What average value did you give to hides in answer to that inquiry?
A. I did not put any price on it.
Q. You made some estimate in your own mind, didn't you?
A. Well, in this last statement?
Q. Yes.
A. Well, I should figure the hides at about 11 cents, 10½ or 11.
Q. Per pound?
A. Yes sir.
2196 Q. What is the value of the hide, roughly speaking, on a 1200 pound steer?
A. They probably make 7%, that is 84 pounds.
Q. Well, a hide of 84 pounds at 11 cents would be $9.20?
A. Yes sir.
Q. And a thousand pound steer——
A. That won't hardly make 7%. It won't make over 62 pounds.
Q. That would be about $7.00?
A. Hides are worth a little more at the present time.
Q. I understand that, but the general average value of the hides, taking the steers as they come would be about $8.00, roughly speaking?
A. All of that.
Q. $8.00 out of the $48.00 is a little higher percentage than you made, wasn't it?
A. He was talking about a different proposition. When I made that average I said $32.00 or $33.00 on the thousand pound bullock.
Q. You estimate the price of a thousand pound bullock at about $40.00, don't you?
Mr. SEVERANCE: No, Mr. Cowan said that.
Mr. COWAN: I assume that.
Mr. DAWES: Well, you assume it to be $40.00.
A. Yes sir.
Q. Then you said, I understood, taking out the hide, you gave the hide a value of say $8.00?
2197 A. Well, 62 pounds——
Q. Well, you need not go into any computation about it.
A. Yes, about $8.00, hides are worth about $8.00, a 62 pound hide.
Q. That is 20% of the value of the whole animal on the $40.00 basis?
A. You gentlemen are getting confused or you are getting me confused on two bases. You are talking about the cost of the animal and the value of the animal for sale. There is a different proposition there. There is supposed to be an intermediary profit.
Q. I was assuming that for either the selling or the buying price.

A. One talking on the buying side and the other talking on the selling side, you won't get any results here.

Q. Well, what was this $40.00 price that you were assuming?

A. That was the original cost of the bullock.

The COURT: That is what the farmer gets.

Mr. COWAN: How much is he worth when he is slaughtered up into his product, above the selling price? In other words, when the slaughterer ships the product, that is the dressed meat and the hide and the other product, how much greater value is that than the animal on the hoof was?

A. The entire results? Do you mean the entire results of the by products and beef and everything?

Q. Yes, that is what I mean.

2198 A. Well, sir, it is fair to state that a $40.00 animal is worth $44.00.

Q. 10% additional?

A. Yes sir.

Q. And that goes in in the labor and expense of doing the work?

A. I beg pardon, what is that?

Q. That goes in in the expense?

A. No sir. There is not that much profit. People are glad to kill cattle for $1.50 a head.

Mr. SEVERANCE:

Q. $4.00 includes the profit and the expenses?

A. Yes sir.

Mr. COWAN:

Q. A great deal of this stuff, in order to be sold has to be manufactured?

A. Yes sir.

Q. That does not go into the dressed beef——

A. It does not come in with the dressed beef. It costs money to kill a beef.

Q. Is the market for the fertilizer via Chicago or to the southeast from Missouri river points?

A. I have only a very limited knowledge in that respect, Mr. Cowan, but my understanding is from my experience and in looking over the records, that it goes largely south and south east, particularly south.

Q. And these hides, do they come to Chicago or go to other points?

2199 A. Well, my knowledge in that respect is confined and very limited. Outside of the local consumption, by that I mean our local tanneries, I think our hides move very largely to the east, to the shoe manufacturing district.

Q. Do. you know whether there are large tanneries at Kansas City and St. Louis?

A. I understand there are.

Mr. COWAN: That is all.

Mr. SEVERANCE:

Q. What do you say the net profit is on the manufacturing, about $1.50 a head?

A. No, I say there are many slaughterers here in Chicago who are very glad to kill cattle for $1.00 or $1.50 a head profit.

Q. About twice or three times what the commission men get.

A. Yes, but you must understand they have a great deal more to do. They have their plant and the interest on that and then they trust out their beef and have to make their collections, etc. There is a great deal of detail.

Q. So they really perform more service for this $1.50 than the commission man does for 50 cents a head?

A. Very much.

Cross-examination by Mr. BAXTER:

Q. I notice it has been stated that the term "packing-house products" as employed in the tariffs of the defendants covers the following articles. I shall not enumerate all of them however, but
2200 just for instance; it covers bacon cured, in bags, barrels, boxes, casks, or crates; beef, dried, loose or in sacks, boxes, barrels, casks or crates; beef pickled—Is that pickled beef, would that be in barrels or boxes or how, pickled beef?

A. Barrels.

Q. Beef intestines, in boxes or barrels; bladders in boxes or barrels; cracklings; how are they shipped?

A. In boxes, I think.

Q. Cotton seed foots—what does that mean?

A. I don't know.

Q. Dry weasands, what is that?

A. That is an intestine.

Q. That seems to be shipped in boxes or barrels?

A. Yes sir.

Q. Glue, shipped in bulk or ground, how is that?

A. Glue?

Q. Yes?

A. Sometimes in boxes and barrels or in bulk.

Q. Grease in buckets, tubs, pails or barrels. Hair of hogs; how is that shipped?

A. The hair of hogs?

Q. Yes.

A. Principally in bulk, in bales.

Q. Lard in barrels or boxes or crocks. I want to ask you, taking the conditions upon which you have been making your calcu-
2201 lations, where you have stated that there is a certain amount of product of various kinds, including dressed beef, etc; now, in the shipment of those products what would be the weight of the boxes, barrels, casks, crates and so on in which those products are transported by the railroad?

A. In the products of beef and the by products derived from the slaughter of beef?

Q. Yes.

A. One to two per cent. of the weight contained in the box.

Q. I don't understand that.

A. Well, if the——

Q. If the animal weighed 1,000 pounds, what would be the weight of the packages in which these products would be shipped?

A. Well, considerable of these products are not put into any package whatever.

Q. That I suppose is so.

A. In fact, you take the steer, the animal and it is a very, very small percentage of the by product or any part that is derived from the slaughter, that is put into package for shipment.

Q. What does this mean here, "beef in sacks, boxes, barrels, casks or crates?"

A. Oh, well, beef in sacks?

Q. Boxes, barrels, casks or crates?

A. That is not dressed beef, that is cured meats, such as dried beef and pickled beef and mess beef and that class of stuff. What I mean to say is that in my opinion that in these by products
2202 of the beef animal that are shipped in dry form, the weight of the package is one or two per cent. of the amount contained in that package. With pickles or anything containing liquid to preserve the beef, the weight of the package or barrel of beef is 60 to 70 pounds.

Q. And the beef in the barrel and the salt would weigh how much?

A. I beg pardon?

Q. The beef and the salt in the pickle?

A. Well, the pickle and the salt would vary quite largely. I am not familiar enough with it to give you a correct figure on the liquid and the salt, but it would be no inconsiderable item.

Mr. DAWES: No inconsiderable item?

A. No sir.

Mr. BAXTER:

Q. When you ship dressed beef, are any preservatives put in the cars in which the dressed beef is carried?

A. Nothing but ice.

Q. I got the term from the commission's report where they refer to "ice and other preservatives." I want to know what that is?

A. I am not wise enough to answer that, I don't know.

Mr. SHAVER: Salt, isn't that a preservative?

A. There is no salt used with the fresh meat.

Q. The Commission mentions salt?

A. Yes sir.

2203 Mr. SEVERANCE: That is put in with the ice.

The WITNESS: That don't come in contact with the meat. It is not a preservative. It is to make the ice colder, to keep the temperature in the car down.

Mr. BAXTER:

Q. This exhibit which you filed, showing the relative receipts at

the six different markets enumerated in the exhibit, as I understand it, shows that in the receipt of cattle, hogs, sheep and horses, Chicago exceeds any of the other markets mentioned in the exhibit?

A. Yes sir.

Q. And so in the slaughtering of cattle, hogs and sheep, Chicago exceeds all the other markets?

A. Yes sir.

Q. Now, I see this statement at the foot of the exhibit "No market in the country can afford to purchasers and shippers of live stock so many or such great advantages as are found at the Union Stock Yards at Chicago. Live stock of all kinds finds a sure and ready sale here, at all times for cash and an immense country patronage extending over 32 states tells the st-ry of general satisfaction." Is that true?

A. Well, it is a very poor merchant that won't cry his own wares. Sometimes he is perhaps inclined to exaggerate a little bit. I don't know that I care to stand sponser for that statement par-
2204 ticularly.

Q. Is it not also a characteristic of the average merchant that he is always complaining about his freight rate?

A. Yes? I expect that is right, too.

Mr. DAWES:

Q. Now in reference to that question about the number of buyers at Chicago market, you prepared a statement or a list don't you?

A. Yes sir.

Q. Were you able to do that with reference to the other markets?

A. No sir, I could not get that without writing to the other markets.

Q. You have no basis, I suppos- of estimating the number of buyers at each of these markets with any reasonable degree of accuracy?

A. Well, I would say this, so far as the large packers are concerned, the packers who slaughter; I could of my own knowledge tell about these other markets where they were represented, but in regard to the other buyers it would be quite vague.

Q. Then in explanation you stated that where you put down a buyer who was a representative of a great house, you only put down the one.

A. I only put down Swift & Company, to illustrate that, and they probably have 20 buyers in the market.

Q. Of course, it would not be fair to do otherwise, because all of those buyers would bid the same price for

2204*a* Union Stock Yards & Transit Company.

Daily Purchase Report.

Date, ——— —, 190-.

The following animals were weighed to Packers today:

Packers & Slaughter-.		Cattle.	Hogs.	Sheep.	Total.
Armour & Co	C. Quinlan				
Anglo-American Pro. Co	J. Rowan				
	W. O. Mally				
Boyd, Lunham & Co.	S. Healy				
Boore, H. & Co	Guthman Pkg Co				
	Bauer & Sweeney				
Continental Packing Co	W. Sheahan				
Guth Pkg Co					
Hammond & Co	T. Mulroony				
Hoff & B.					
	J. Levi				
Libby, McNeill & Libby	O. F. Mayer & Br.				
	Arnold Bros				
	Aager Pkg Co				
Morris & Co	A. Stem				
	A. Strauss				
National P. Co					
Pfalzer Pearce & Hess	T. Mulroony				
Pfaelzer & Son					
Roberts & Oake	Miller & Hart				
	C. Unath				
Swift & Co					
Schwarzschild & Sulzberger Co.	J. Wimp				
Standard Slaughtering Co					
Total Packers					

2204*b* Union Stock Yard & Transit Company of Chicago.

Daily Report of Shipment.

Date.....190

Shippers.	Cattle.	Hogs.	Sheep.	Total.
Anthony, D. M.				
Armour & Co.				
Bartlett, G. V. & Co.				
Bimbler, Van W. & Co.				
Blackshear, E. A.				
Bloomer & S.				
Boden P. Co.				
Brelsford P. Co.				
Boston P. Co.				
Burkhart P. Co.				
Cleveland Prov. Co.				
Comstock & Co.				
Crane, M. & Co.				
Cudahy Bros.				
Cauton P. Co.				

Shippers.	Cattle.	Hogs.	Sheep.	Total.
Collins, W. J.....				
Croninger, M.				
Coffin P. Co.....				
Daniel, W.				
Davis, C. H. & Co.....				
Davis, E. W. & Co.....				
Doud & K.....				
Dunlavey Bros.				
Dunning & S.....				
Dold P. Co.....				
Eckart P. Co.....				
Egan, E.				
Ellsworth-Cross Co.				
Erick Bros.				
Ehrman, C.				
Evans, R. D.....				
Felm, J. J.....				
Figge, H. Bros.....				
Fullerton, D.				
Focke & Son.....				
Folger, J.				
Gross Bros.				
Gillett, C. H.....				
Googins, H. F.....				
Gray & Judic.				
Guinz, R.				
Gardner, M.				
Halsted & Co.....				
Hammond S. & Co.....				
Hathaway, J. A.....				
Homan & Son.....				
Huffman, J. D.....				
Home, D. B. Co.....				
Hildreth, J.				
Hauser, C. M.....				
Hammond, G. H. & Co..				
Jersey City P. Co.....				
Kniers Bros.				
Klinck, C.				
Kerrus P. Co.....				
Kennedy, J. B.....				
Kindball C. Co.....				
Kurdle, T. J.....				
Leavitt, Cal.				
Lutes, Lee.				
Lehman Bros.				
Louisville P. Co.....				
Lake Erie P. Co.....				
Lima P. Co.....				
Lowe, O.				

Shippers.	Cattle.	Hogs.	Sheep.	Total.
McIntyre, P. J.				
Merwin P. Co.				
Moog & G.				
Monroe, W. H.				
Morris, Edward				
Myers, H.				
Myers & Son				
North P. & P. Co.				
New England D. B. Co.				
Newhoff, L.				
Overman, W. H.				
Ohio P. Co.				
Palmer, S.				
Parker, W. & Co.				
Penley, D. W.				
Pittsburgh P. Co.				
Plankinton P. Co.				
Porter N.				
Rea & Co.				
Reeves & Co.				
Rohe & Bro.				
Rush & Son				
Rosslyn P. Co.				
Schrath & P. Co.				
S. & S.				
Shenk & Son				
Schluderberg & Son				
Schwartz & Co.				
Shamberg, G.				
Smith, F. A.				
Sperry & B.				
Springfield P. Co.				
Squires, Jno. P.				
Stern J. & Son				
Sadler, J. F. & Co.				
Sellmayer, L.				
Swift & Co.				
Seltzer Bros.				
Stowers P. Co.				
Swope H. & Co.				
Theur P. Co.				
United D. B. Co.				
Ulmer P. Co.				
Vogel & Son				
Virginia P. Co.				
Wheeler, J. E.				
Waldock, W. A.				
Weaver, P.				
Webber, R.				
Weiner & Son				

Shippers.	Cattle.	Hogs.	Sheep.	Total.
Weinrich, W. A.....				
White, P. & D.....				
Wilson, G. B.....				
Witte, A.				
Weaver, A. J.....				
Wood, M. B.....				
Young, E.				
Zehmer Bros.				
Zaller, Wm.				
Totals				

2204c Union Stock Yard & Transit Company of Chicago.

Daily Purchase Report.

Date.....190

The following animals were weighed to speculators.

Speculators.	Cattle.	Hogs.	Sheep.	Total.
Adams, E. C.....				
Ayers, W. E.....				
Baker & Sons.....				
Bragg & Co.....				
Barlow, A.				
Bligh, W. J.....				
Barnett & Co.....				
Bagley, M.				
Clark, M.				
Cannon, J. D.....				
Clefford, R.				
Clark, J.				
Connors & Morris.....				
Callaghan, Jno.				
Callaghan, M. J.....				
Colvin, F. J.....				
Darlington, W.				
Daniels, W.				
Dory, Wm.				
Daly, Thos.				
Doty, L.				
Dunn & H.				
Ettlinger, M.				
Eastburn, A. C.....				
Ellis, E.				
Flanagan, Wm.				
Foster, M.				
Foale & Son.....				

Speculators.	Cattle.	Hogs.	Sheep.	Total.
Fuller & O'Connor.....				
Fitzgerald, P.				
Finnegan, J.				
Fitzgerald, J.				
Geisler, W.				
Guthman, D.				
Goodfellow, F. R.....				
Golden, M.				
Gray, Fred.				
Greenebaum, Joe.				
Hagenbuck, H.				
Henderson, Sacks.				
Herman, B.				
Hart, W. C.....				
Heffernan, L.				
Hale, Wm.				
Healey, S.				
Hayes, H.				
Haesler, P.				
Joslyn, M. L.....				
Killackey, J.				
Killackey, C.				
Kirk, J.				
Kiel, H. W.				
Krump, J.				
Kellogg Bros.				
Kinst, L.				
King, John				
Knowles, J.				
Law, Wm.				
Lawler, J. J.				
Loefler, J.				
Lee & Co.				
Long, P.				
Long, W.				
Martin, S.				
Martin, C. H.				
Marlow, E.				
Morgan, J. L.				
Murray, Wm.				
Maher, M.				
Minteer, M.				
Miller, John				
Mahoney, D.				
Mahoney, Thos.				
Martin, Geo.				
Newton & H.				
Nichols, G. E.....				
Neiss, O.				
O'Brien, E.				

Illustrated and Demonstrated

Supremacy of Chicago as the Live Stock Market of the World

1904

RECEIPTS

	MARKETS	Per Cent.	HEAD
CATTLE	CHICAGO	40.9	3,526,684
	KANSAS CITY	25.1	2,163,471
	ST. LOUIS	12.5	1,074,128
	OMAHA	10.9	944,192
	ST. JOSEPH	6.8	587,261
	SIOUX CITY	3.8	331,293
	TOTALS	100.0	8,627,027
HOGS	CHICAGO	43.9	7,238,746
	OMAHA	13.9	2,299,837
	KANSAS CITY	13.5	2,227,170
	ST. LOUIS	11.9	1,954,902
	ST. JOSEPH	10.0	1,656,949
	SIOUX CITY	6.8	1,113,177
	TOTALS	100.0	16,490,471
SHEEP	CHICAGO	51.4	4,504,630
	OMAHA	20.0	1,754,365
	KANSAS CITY	11.4	1,004,099
	ST. JOSEPH	9.1	794,379
	ST. LOUIS	7.8	687,898
	SIOUX CITY	.3	28,464
	TOTALS	100.0	8,773,833
HORSES	CHICAGO	32.8	105,949
	ST. LOUIS	31.0	100,041
	OMAHA	14.5	46,845
	KANSAS CITY	11.5	37,139
	ST. JOSEPH	8.9	28,704
	SIOUX CITY	1.3	4,185
	TOTALS	100.0	322,863
CARS	CHICAGO	45.6	286,873
	KANSAS CITY	18.3	115,218
	OMAHA	12.9	81,035
	ST. LOUIS	11.0	69,141
	ST. JOSEPH	7.8	49,066
	SIOUX CITY	4.4	27,991
	TOTALS	100.0	629,324

SLAUGHTER

	MARKETS	Per Cent.	HEAD
CATTLE	CHICAGO	42.2	2,176,936
	KANSAS CITY	21.5	1,111,284
	ST. LOUIS	14.2	734,648
	OMAHA	12.4	642,277
	ST. JOSEPH	8.3	430,298
	SIOUX CITY	1.4	71,599
	TOTALS	100.0	5,167,042
HOGS	CHICAGO	41.9	5,612,724
	OMAHA	15.5	2,087,606
	KANSAS CITY	15.5	2,083,020
	ST. LOUIS	11.6	1,562,306
	ST. JOSEPH	11.6	1,562,340
	SIOUX CITY	3.7	500,008
	TOTALS	100.0	13,421,003
SHEEP	CHICAGO	53.6	3,142,360
	OMAHA	15.1	885,421
	KANSAS CITY	12.5	731,259
	ST. LOUIS	10.0	587,308
	ST. JOSEPH	8.7	509,006
	SIOUX CITY	.1	6,199
	TOTALS	100.0	5,861,553

No market in the country can offer to producers and shippers of live stock so many and such great advantages as are found at the Union Stock Yards of Chicago. Live stock of all kinds find a sure and ready sale here at all times for cash, and on shortest railway passenger, extending over seventy-two lines, tells a story of general satisfaction.

Speculators.	Cattle.	Hogs.	Sheep.	Total.
O'Donnell, J.				
O'Keefe, J.				
Ottman & Co.				
Prucka, W.				
Parmenter & Co.				
Rosemon, R. G.				
Rose, J.				
Sheehan, P.				
Sheehan, Wm.				
Sinclair, R. E.				
Shea, M.				
Sheehan, J.				
Smith, J.				
Sparks, Wm.				
Shirley, J. W.				
Shonsey, J.				
Sweetland				
Taylor, W.				
Valentine, G.				
Williamson, H.				
Wolf Bros.				
Wolf, H. M.				
Wood, F. P.				
Totals				

(Here follows facsimile marked p. 2204*d*.)

2205 Swift & Company.

A. No, I want to illustrate that. Swift has in the cattle business there at the yards, he has a head cattle buyer. He has a buyer for export cattle and a buyer for market cattle and a buyer for bulls, two buyers for market cattle; a buyer for canners and one or two buyers for calves, and so on through the category, and they don't anyone interfere with the other.

Q. Each one is in a separate department, but it is Swift & Company that is bidding all the time?

A. Yes sir.

Q. And their price?

A. Yes sir.

Q. So if he has two buyers for foreign market cattle, it is simply their business to attend to that and they would not of course, bid against each other?

A. No, not two in the foreign market.

Q. Or if they came in the same division of purchases, there is only one price bid by Swift & Company?

A. That is correct.

Q. And when you have said Swift & Company, that is right?

A. I made that explanation, Mr. Dawes, at the time I filed this exhibit, that I put Swift & Company in only as one buyer although they had 20 or 25.

Q. As a matter of fact there is only one man for Swift & Company, although he is split up into several departments.

2206 A. It is only one concern.

Mr. DAWES: That is all.

Mr. SEVERANCE: When Mr. Stickney was on the stand, he was requested to have made up from the books of the Great Western, a statement showing the number of cars of packing-house product and fresh meats shipped from Missouri river points to Chicago and the amount of damages to such shipments on account of wrecks and otherwise paid during the fiscal year 1905.

I have in my hand this statement which I will read into the record as Mr. Stickney's response to that request.

The COURT: Go ahead.

Mr. SEVERANCE: It is headed

Chicago Great Western Railway Company.

Statement of the number of cars of packing-house products and fresh meats shipped from Missouri river points to Chicago and the amount of damage to shipments on account of wrecks and otherwise paid during the fiscal year 1905. It is under four heads.

2207

Name of packer.	No. of cars.	Damage paid.	Average per car
Armour Packing Co.....	3718	$1,042.32	28 cents
Cudahy Packing Co.....	1890	753.91	40 "
Fowler Packing Co.....	859	32.88	4 "
Hammond Packing Co.....	1025	122.81	11 "
Nelson Morris Co.....	1452	31.49	2 "
Swarzschild & Sulzberger...	1822	110.86	6 "
Swift & Co.....	6214	2,183.51	35 "
Omaha Packing Co.....	861	No damages	
Being an aggregate of..	17841	4,277.85	24 "

Mr. SEVERANCE: Or being a general average of 24 cents per car. That is from all damages by wrecks or otherwise during that fiscal year.

Mr. COWAN: I would like to ask you, if you are willing to make the statement, with respect to whether you had a wreck in the year 1903 of any cars of Nelson Morris & Company that cost you between $6,000.00 and $7,000.00?

Mr. SEVERANCE: I do not know that personally. You told me that but you only asked Mr. Stickney for a statement of this year but I understand that you have subpœnas out for the representatives of the different packers, and, if there was such a thing, of course, when you put Nelson Morris & Company's man on the stand it will be developed.

Mr. COWAN: I thought you knew about it.

Mr. SEVERANCE: You told me about it, but, of course when Nelson Morris & Company's representative goes on, he will testify to it and I would a little rather have him do it than to admit it, because I don't know the facts otherwise than what you told me that
2208 Nelson Morris & Company's man told you.

Mr. COWAN: We desire to introduce in evidence now a lot of testimony that was offered and received by the Interstate Commerce Commission in this case, the testimony of some of the railway representatives, for example, Mr. Darius Miller the Vice President of the Burlington and various other witnesses.

They stated it as their opinion that the live stock rates were too low. We are not offering the testimony on those points for the purpose of proving that that was the fact, we simply offer that testimony on the other point, with respect to the comparative and relative rates on the two commodities, that being the issue in this case as we understand it but for convenience, supposing that counsel on the other side would want the-r part of it read, if they desire it read we

will do that. Otherwise, we will simply read that part of the testimony now, making the statement to the court that we are not offering the other part of it, because we are not attempting to prove that that is the fact.

The COURT: Well, if you offer part, you will offer all of it, of course.

Mr. COWAN: How is that?

The COURT: If you offer part, it is your duty to offer all,
2209 but I would not claim that you were bound by any statement made in there.

Mr. COWAN: That is the point that we desire to reserve.

Mr. SEVERANCE: Before your Honor receives that, we want to renew our objection and to make one or two suggestions in addition, as to why that testimony should not be received.

Mr. COWAN: We now read the testimony of Darius Miller, Vice President of the Burlington.

The COURT: I understand that you offer to read his testimony taken before the Interstate Commerce Commission in this case?

Mr. COWAN: Yes sir.

The COURT: And there is an objection to it.

Mr. SEVERANCE: Yes, your Honor. We make the objection that it is incompetent. In the first place, there is no showing that Mr. Miller has been out of the jurisdiction of this court. In fact, I think counsel will admit that during practically the entire time that this case has been on trial before your Honor, Mr. Miller has been within the jurisdiction of this court. His home is in Chicago and his office is in Chicago.

There is no claim made and no showing made that Mr. Miller is dead; that Mr. Miller is disabled from testifying, is ill or
2210 anything of that sort. Now for that reason Mr. Miller should be produced here as a witness, and that reason is in addition to the suggestions that we made to your Honor at the beginning of the trial.

In the course of the examination into this case, the defendants have introduced a great deal of testimony. They have offered for the consideration of your Honor a great many facts which bring about certain results as they claim, showing the impossibility (not only the inadvisability, but the impossibility) of granting the relief prayed for by the complainant in this case. Tables of statistics have been offered and all kinds of evidence has been produced before your Honor.

Now, if Mr. Cowan desires to contradict that testimony by the testimony of Mr. Miller, a witness who has been within call all the time, he should bring Mr. Miller on the witness stand so that we would have an opportunity to cross-examine him in the light of the facts that have been developed upon this hearing. That is a right which is of the highest importance to these defendants.

Now when Mr. Miller was sworn in the hearing before the Interstate Commerce Commission, he went on the stand in the haphazard way that witnesses are called and examined before that body,
2211 and he was called by the Government. The counsel who are trying this case here were not present. I think that counsel

will bear me out when I say that there is not one counsel here present, aside from Judge Ransom, who was present at the hearing before the Interstate Commerce Commission.

The case before the commission was not prepared as this case has been. The facts that have been shown here, it seems to me, as to the rates and as to the other considerations that enter into the making of the rates are of the greatest importance and they were not before the Commission at the time Mr. Miller was sworn and testified there. There was no opportunity to confront him with those facts and break down his testimony, assuming now that his testimony was unfavorable to the contentions of the defendants. I am not saying that it is, but he, being called by the Government, it is only a fair assumption that his testimony is unfavorable to our views.

Now if your Honor please, it seems to my mind that, even if the testimony was under any rule of evidence competent, it would be a gross abuse of the discretion of this court to permit this testimony of Mr. Miller to be read in evidence, when Mr. Miller has been right here in Chicago during all the weeks that this case has been on trial and could have been produced here and counsel for the defendants could have had an opportunity to cross examine him and en-
2212 deavor to get from him admissions in the line of their views and contentions urged here.

Now, I assume that we are trying to get at the truth in this case. I assume that your Honor wants to get at the real facts in regard to this controversy. The Interstate Commerce Commission in its finding, held that the relative cost of performing the one service was practically equal to that, to the cost of the other. Now that being the case, that being as counsel himself has said very important (yet it is not the only feature in this case as we hope to convince your Honor) but it being a very important question in the case, your Honor is certainly entitled to have not an offhand statement, practically an *ex parte* statement, because that is what it amounts to when we consider that Mr. Miller's testimony is to go in without an opportunity to cross examine him in the light of the facts that have been developed here, but the very fullest information obtainable. The evidence that has been adduced for the purpose of this trial was not introduced before the Interstate Commerce Commission.

I say, your Honor, it would be a gross abuse of the discretion of the court even if the testimony were otherwise competent, to permit that testimony to be read here and the defendants deprived
2213 of the right to cross examine the witness, when it will be conceded by counsel for the complainant that Mr. Miller has been within the call of this court for the last three weeks and could have been produced at any time.

Now further than that, I undertake to say that counsel, outside of that one opinion that he read in the Federal Court at Cincinnati, cannot find a decision, either in an Interstate Commerce case or any other kind of a case, where the testimony of a witness given upon a previous trial of an issue between the same parties, can be read in evidence except in cases where the witness is absent from the jurisdiction of the court or has died since the former trial.

Mr. RANSOM: Or where the case is being heard on appeal?

Mr. SEVERANCE: Yes, of course, but this is not an appeal. This is a trial *de novo*. It is so as to both cases, they being consolidated and there is no authority in the books, I undertake to say, for the reading of such testimony as that in a new trial, and that is what this is, of the same issue except in the cases that I have mentioned.

Now it seems to me further, your Honor, that in view of the fact that Judge Kohlsaat, who is the Circuit Judge of this circuit, has made a square ruling upon the identical question here involved, that in the orderly administration of justice, that should become
2214 the rule with this circuit so long as the court is sitting as a *nice prius* court.

This is not a trial in the circuit court of Appeals and that ruling, of course would not control then, but it should control, it seems to me so long as the case is in the same court in which Judge Kohlsaat made his ruling. But the rule of evidence is so well settled that testimony of that kind cannot be read, where the witness can be produced, that it don't seem to me that it requires any further elaboration on that point but even if we concede that your Honor's first impression, I apprehend it was only a first impression, even if we concede that your Honor's first impression in that regard is correct and that the testimony is admissible, I must urge upon your Honor the suggestion that it would be a gross abuse of the discretion of this court to allow those statements of Mr. Miller to go in here, whatever they may be, without affording us an opportunity to cross examine him upon the facts as they have developed in this trial, when he has been within the reach of the court during the three weeks that the case has been on trial.

That, of course, is in addition to the further ground which was suggested by Mr. Dawes the other day (when Mr. Ripley was put upon the stand) namely, that this testimony is not rebuttal
2215 testimony but a part of counsel's case in chief, if it is proper to be received at all.

Counsel cannot claim to be taken by surprise because when he made his offer originally, the matter was under discussion and I asked your Honor whether he would be permitted to read in evidence anything that was not rebuttal and your Honor said he would not. That is in the record of the first day's proceedings.

The COURT: Very well, objection overruled.

Mr. COWAN: It will probably be somewhat tiresome for me to stand up and read all this so I will ask permission to sit down when I grow tired.

Mr. SEVERANCE: I understand, your Honor, that we all are to have exceptions to that ruling?

The COURT: No exceptions are necessary. This is a chancery case, and all your rights are preserved and as I have said before, the Court is presumed not to listen to incompetent testimony.

Mr. SEVERANCE: But your Honor cannot stop his ears, you will have to hear this.

The COURT: I will take care of that part of it.

Mr. SHAVER: It has been customary in these cases not to read the

testimony, but to allow counsel to refer to such portions as they rely upon in their argument. I have had a number of cases with Mr. Baxter and we never have read the testimony to the court.

2216 Mr. DAWES: We would like to object to particular matters possibly and see whether they are competent.

Mr. BAXTER: Referring to what Mr. Shaver says, the statement is true, but we have always under those stipulations, given each other ample time to get ready to prepare for the argument so that he would furnish me with his brief and I would furnish him mine and we would always have plenty of time for the argument of the case.

If this case is to proceed, if we are to proceed immediately after the conclusion of the testimony, with the argument, your Honor sees how important it is that the defendants should have the opportunity to hear what is going to be put in against them.

The COURT: Well, I am willing to take any course you may agree upon.

Mr. SHAVER: The gentlemen can read the testimony and make a note of whatever parts they except to.

The COURT: You can serve a notice on them (addressing Mr. Cowan) stating what portions of the testimony you will read.

Mr. DAWES: Before your Honor enters upon this, I would like to inquire if this is likely to take much time? I would like again to ask about Mr. Cusey. There was a solemn undertaking and

2217 engagement on the part of counsel to produce him here this morning. Some of us have gone to some inconvenience in making arrangements with reference to his possible cross-examination, and we have, in our own case, our Traffic Official here, he is waiting and who has been here on two or three occasions. I would like to know if it is not reasonably convenient for counsel to advise us when he will call Mr. Cusey.

The COURT: What do you say about that?

Mr. COWAN: I thought, when I said that he would be here this morning, that he would be here.

Mr. DAWES: Yes, of course.

Mr. COWAN: I made inquiry again yesterday afternoon and, on the report coming that he would not have his figures ready before noon to-day, I said that I had told the attorneys that he would be here this morning. I received a reply that he could be here this morning, but that he would not have his figures completed before noon. I said then that I wanted him here at the afternoon session. I have no control over him whatever.

Mr. LYNDE: He has been subpœnaed, I presume?

Mr. COWAN: He has been subpœnaed.

Mr. SEVERANCE: The Court ordered him to be back here two days ago.

Mr. COWAN: I don't know that the court made any special order about it. He was requested to produce certain statements

2218 and they will take considerable time.

Mr. DAWES: I was informed by his counsel yesterday that he had his figures.

Mr. COWAN: I am only telling you what they reported to me. I did not know that he had any counsel in the case.

Mr. LYNDE: Why, he communicated with you.

Mr. DAWES: Certainly, Mr. Boyesen is his counsel and seems to be his present keeper.

Mr. LYNDE: We get so much credit through the newspapers for Mr. Cusey's statements and action that we want him here.

Mr. COWAN: Who gets the credit?

Mr. LYNDE: Discredit, I might say. I don't know who it is that runs the press bureau.

Mr. DAWES: I do not think it is unfair at this juncture to call the attention of the court to the fact that we are being made the subject of more or less editorial criticism. There was an editorial in the Tribune this morning to the effect that the evidence here had developed the fact that the railroads had been paying rebates right along when everybody knows that knows anything about it, that there has not been the slightest suggestion of that kind made in this court.

The COURT: The court cannot be held responsible for the newspapers.

2219 Mr. SEVERANCE: Somebody must be giving them information.

The COURT: Look here, gentlemen, that is not fair. I have had experience with the newspapers of Chicago and they generally get those things through the energy of the newspaper men.

Mr. COWAN: I don't know anything about it.

Mr. SEVERANCE: I am very sure counsel don't.

The COURT: It is due to the energy of the newspaper men that they imagine such things.

Mr. SEVERANCE: The curious thing about it is that all their imagination has been on one side.

The COURT: Not very much. My experience is that you will find the papers in this city are back of the capital in this city and that they see that misrepresentations are not made against it.

Mr. COWAN: I now offer the testimony of Mr. Darius Miller, First Vice President of the C. B. & Q. Railroad Company, taken before the Interstate Commerce Commission in the original trial of this case before the commission at a session held at Chicago beginning on the 15th day of December, 1902.

Mr. SEVERANCE: It has been suggested by counsel that there should be something entered on the record to show that each and every question is permitted to be answered over the objection

2220 which we have made heretofore in a general way.

The COURT: You are entitled to have the record show your point in every possible view, and have all your rights preserved.

Mr. SEVERANCE: To every question, to each question and to each witness and that in addition, any special objections that we may urge to various questions as they are read by counsel, and I would ask Mr. Cowan to read slowly enough so that we can stop and put in our objections, if we desire, specially.

Mr. COWAN: Won't the objection already entered cover it?

Mr. SEVERANCE: I don't understand that the court has held that he will allow you to read everything? Is that the ruling?

The COURT: Don't you think you had better fix it some way so it won't delay matters unnecessarily?

Mr. SEVERANCE: It seems to me, your Honor, that the matter of preserving our rights is more important than saving time just now.

The COURT: You can save your point in the upper court.

Mr. SEVERANCE: I don't want to proceed on the assumption that your Honor is going to decide against us in this court. What I am trying to do is to prevent the reception of improper evidence.

2221 The COURT: I have stated my views on that, that I thought it was the duty of the court in this sort of a case, to hear almost everything that is presented that is apparently material. I have done that on your side of the case and I think the shortest way is to do it on the other side and let you people argue it out later.

Mr. SEVERANCE: I don't think your Honor has done that where objection was urged by complainant's counsel. We are not responsible for the way he tries his case. I want to understand whether your Honor by your ruling intimates that you will receive all of the answers of these various witnesses because if you do I don't want to spend any time objecting specially.

The COURT: I think you can each read what you want to from these records, and you may have the right to make any objection you want to or raise any point you want to, the same as if you had objected and excepted and in that way not delay matters by standing up and arguing about it.

Mr. SEVERANCE: I don't know how——

The COURT (addressing reporter): Put in the record there that the counsel for the railroad companies are presumed to object to every question that comes up and are entitled to their exception to the ruling as to every particular question.

Mr. SEVERANCE: That the objection will be entered to each 2222 question as incompetent, irrelevant and immaterial, and that in each case the objection is overruled.

The COURT: And you object, also, on the ground that it is not rebuttal.

Mr. SEVERANCE: Yes, and that the testimony is not rebuttal, and that there is no showing that the witness is or has been since the trial before the Interstate Commerce Commission, without the jurisdiction of this court, and no showing that the witness has died or is for any reason unable to be present in court and testify.

Mr. DAWES: I would like to enter another objection. Whatever may be the court's view as to the propriety of this testimony in the Interstate Commerce case, in which they found—not under the Elkins Act——

Mr. SEVERANCE: The first case.

Mr. DAWES: Those cases having been consolidated, there can be no question, I suppose that the evidence would not be admissible in either of them.

Mr. COWAN: We offer it in the case brought to enforce the order of the commission.

Mr. DAWES: Those cases having been consolidated, the testimony goes in in both cases, and I interpose the objection that, having been consolidated, they now constitute one case before the court, and if the testimony is incompetent in either, it is incompetent in both.

2223 The COURT: Well, now, have you got it where you want it? The Court will announce that he will consider testimony that is competent only, when he passes on the case. Now, can't you arrange some way to save time?

Mr. COWAN: I am not going to attempt to read all the testimony. I offer all the testimony and will only read certain parts of it.

Mr. SEVERANCE: I understood the court held you were to offer it all.

Mr. COWAN: I say I offer it all, but I don't like to read it all.

Mr. SEVERANCE: Now do you make the offer of all of Mr. Miller's testimony?

Mr. COWAN: Subject to the qualifications that I have stated with respect to his testimony concerning the reasonableness of the rates.

Mr. SEVERANCE: In other words, you don't offer matters that are brought out by your own examination?

Mr. COWAN: I offer that part of the testimony with the exception, no matter who asks him the question, with the exception of that part wherein he testified (if he did testify, and my recollection is that he did, I have not read it in a long time) that in his opinion the rates on live stock and the rates on packing-house products were both too low.

2224 Mr. SEVERANCE: See the situation that that leaves us in.

The COURT: I think that has been pretty well canvassed, Mr. Severance.

Mr. SEVERANCE: Well, very well then, if I am trespassing upon the time of the court, I will sit down.

Mr. DAWES: At the risk of infringing upon your Honor's patience still further, I want to say that I understood your Honor to rule on that that he must offer it all, but whether he was bound by it or not was another consideration.

The COURT: You have a right on your side to read that part of it if he don't read it, and that will give you the benefit of it.

Mr. DAWES: We don't care to read it. He must either introduce the testimony according to your ruling, he must either offer the entire testimony or none of it. Now, whether he is bound by

2225 what he offers is a question for futher consideration.

The COURT: Yes, that is what I said.

Mr. DAWES: I understood your Honor so ruled.

Mr. COWAN: I didn't understand the Court so to hold, that we were bound to offer all the testimony.

The COURT: You are not bound to read it all, but it is here.

Mr. SEVERANCE: That shows that counsel does not understand your Honor's ruling as we do. He says he does not understand your Honor's ruling to be that he must offer all of the evidence. I understand your Honor to rule that he must offer all the evidence.

The COURT: It is here now, and either one of you may read it or

not. This case in this court or in any other court, will not be decided on quibbles and debates about immaterial matters and I suggest that you get down to the merits as soon as you can. I have not decided anything, I am an absolute blank on every question and I am anxious to hear you on them.

Mr. DAWES: At the risk of abusing your Honor's patience, I have one further suggestion: Will it be possible in anyway, after the case comes to your Honor for final consideration to determine accurately what evidence your Honor has considered and what you have rejected? That is the point that gives us concern and I speak
2226 that with all respect to your Honor. Of course, in your Honor's sound discretion and in your knowledge of the law, you will reject such portions of the testimony as, to your judicial mind, shall not seem competent.

The COURT: We will pass on that when we come to it. I will announce no opinions until I get through. I will certainly not decide anything until I get to it. I am not going to have counsel arise and say: "You said this, you said that and the other", because I have not decided any proposition in this case up to date as to evidence, or anything else. Now, go ahead.

Mr. COWAN: (Referring to the record in these cases before the Interstate Commerce Commission.) From page 318, I will begin where I did before in order that the stenographer may get it consecutively; I will simply read the questions and the answers without calling the name of the party who was questioning except where it seems necessary.

Mr. Cowan thereupon proceeded with the reading from the record of the Interstate Commerce Commission, as follows:

Testimony of D. Miller.

"Q. Mr. Miller, will you kindly state your name and official position with the Burlington System?

A. D. Miller, First-Vice-President of the C. B. & Q.

2227 Mr. TOMLINSON: Will you kindly state what action your Company took at the time that the 16½ and 20 cent rates were established by the Great Western.

Mr. MILLER: We established the same rates from Kansas City and Omaha.

Mr. TOMLINSON: At the time the 14.7 and 15 cent rates were put in from St. Paul what action did your company take?

Mr. MILLER: We met them.

Mr. TOMLINSON: At the time the Santa Fe put in the 12 cent rate ..at action did your Company take?

Mr. MILLER: We adjusted our freight rates from the west on the basis of 12 cents.

Mr. TOMLINSON: With a minimum of 23½ cents?

Mr. MILLER: With a minimum of 23½ cents.

Mr. TOMLINSON: Your line is a very large carrier of live stock to the Chicago market and other markets, is it not?

Mr. MILLER: Yes, sir.

Mr. TOMLINSON: What is the average weight of the live stock car in which live stock is transported—single deck cars?

Mr. MILLER: The 36 foot car weighs about 31,000 pounds.

Mr. TOMLINSON: And smaller cars would average less?

Mr. MILLER: Yes, sir.

Mr. TOMLINSON: What would the average be for the entire equipment of your line?

Mr. MILLER: I do not know that now. They are mostly 36
2228 foot cars.

Mr. TOMLINSON: What is the minimum of cars of that dimension for hogs and cattle?

Mr. MILLER: Our tariffs show that I could not say from memory.

Mr. TOMLINSON: In the Northwest the minimum is 24,000 pounds, is it not?

Mr. MILLER: That is my information.

Mr. TOMLINSON: What is the average weight of refrigerator cars used in the transportation of fresh meats and packing house products?

Mr. MILLER: I think it runs about 34,000 pounds.

Mr. TOMLINSON: Do you know how much ice and salt are usually transported in fresh meat cars?

Mr. MILLER: I have made up some figures here if you want to demonstrate the relative difference between the live stock and fresh meat rates.

Mr. TOMLINSON: That is exactly what we wish to demonstrate.

Mr. MILLER: I have tried to make out some figures and to go into details. I have taken into consideration the rate of mileage and have charged for the stock cars the customary mileage of six mills.

The CHAIRMAN: You charge your own cars a mileage of six mills?

2229 Mr. MILLER: Yes, sir; that has been the customary rate we pay one line to another as an off-set to the one cent to the private owners.

The CHAIRMAN: Does the statement you produce cover traffic on your entire system or only on some portion of it?

Mr. MILLER: This deals only with the relative rates as between Missouri River and Chicago.

Com'r PROUTY: Does that represent actual movement of traffic or is it simply an estimate?

Mr. MILLER: The actual movement of the traffic.

The CHAIRMAN: Then you are using actual figures?

Mr. MILLER: I am speaking with reference to the movement from the Missouri River to Chicago.

The CHAIRMAN: So it is the entire traffic of your road from the Missouri River to Chicago for a given period?

Mr. MILLER: Yes, sir.

Mr. BIRD: Mr. Miller, you say that you credit, or charge up to your own cars six mills mileage?

Mr. MILLER: Yes, sir.

Mr. BIRD: Have you ever ascertained about how much it costs

to keep those cars in repair? The one cent a mile on refrigerators pay for the use of the cars and the owner pays all his repairs. To make it a fair comparison, you would have to add to the six mills the average of the cost of the repairs, would you not?

2230 Mr. MILLER: That is the reason I charged the six mills to our cars. We do not maintain our private cars. The owners do out of the six mills mileage.

Mr. BIRD: But the railroads must maintain their cars themselves and to make the comparison complete, does it not require you to add to it the average per mile cost of repairs?

Mr. MILLER: I think not.

Com'r PROUTY: If you repair a foreign car, do you charge it to that Company?

Mr. MILLER: If the damage occurred on our line, no. We assume that ourselves. I have taken into account in one statement switching charges and endeavored to get at the net revenue received by the Company.

The CHAIRMAN: Let me ask whether your experience shows that six mills is a fair allowance to cover the interest on the cost of the car, depreciation and cost of keeping the car in repair, or have you taken that because that is what is paid between one road and another?

Mr. MILLER: Because it is paid between one road and another.

The CHAIRMAN: Do you know what proportion that bears to the interest on the cost of the car, depreciation and keeping in repair?

Mr. MILLER: I think it is under, considering mileage. On

2231 refrigerator cars we make a very large mileage per day, perhaps three times as much as on our own cars. Therefore, one cent allowance on refrigerator cars is very much more out of proportion to six mills than appears on the face of it. I do not suppose we make more than thirty miles a day average on our own stock cars, while on refrigerator cars it will run very much in excess, probably twice as much. There is a greater difference in the earnings per car than is shown by the one cent and six mills.

Mr. TOMLINSON: You may now proceed with your figures, with the permission of the Commission.

Mr. MILLER: I have got these figures from the Western Railway Freighting Association, covering some 300 cars of freight actually moved within the last few days. Average weight of freight paying contents, cattle 23,800 pounds, hogs 17,600 pounds, fresh meat 21,600 pounds and packing house products 26,800 pounds; average weight of preserva-ives in fresh meat cars 6,000 pounds, in packing house product cars 4,000 pounds, and I have charged to live stock cars an average weight for bedding, etc. 2,000 pounds. Then the fresh meat cars carry an average in the way of racks, hooks, boxes, ice cones, etc. of 3,000 pounds, making the relative weight of total contents of cars, cattle, 25,800 pounds, hogs, 19,600 pounds,

2232 fresh meat 30,600 pounds and packing house products 30,800 pounds. The average weight of cars used, live stock 31,000 pounds, fresh meat 34,000 pounds and packing house products 34,000 pounds. Gross weight transported, cattle 56,800 pounds, hogs 50,600 pounds, fresh meat 64,600 pounds and packing house

products 64,800 pounds. The percentage of paying weight hauled is on cattle 41.9 per cent., hogs 34.8 per cent., fresh meat 33.4 per cent., packing house products 41.2 per cent.

Mr. TOMLINSON: Have you any figures showing how much that yields for dead weight?

Mr. MILLER: Yes, sir. The average revenue per car on fresh meat, based on a 20 cent rate would be $43.20 from Kansas City to Chicago; deduct for car mileage $9.80 and switching $3. and it would make an average net revenue of $30.40, or a net revenue per hundred pounds of gross weight carried of 4.7 cents per hundred pounds and a net revenue per car mile of 6.2 cents. On packing house products the gross revenue per car would be $53.60; deduct for car mileage $9.80, and for switching $3.; that would make an average net revenue per car of $40.80 or 6.3 cents per hundred pounds for the gross weight carried. On cattle the gross revenue per car would be $47.60.

Mr. TOMLINSON: At what rate?

Mr. MILLER: At 20 cents. The net would be $41.22.

Com'r PROUTY: What did you say the gross was?

2233 Mr. MILLER: $47.60.

The CHAIRMAN: You deduct six mills mileage?

Mr. MILLER: Deduct six mills mileage and fifty cents a car absorbed at Kansas City.

The CHAIRMAN: And the switching charge, too?

Mr. MILLER: No, no switching charge. We pay none. I only deduct the switching charge where it is actually paid.

Com'r PROUTY: Give us the figures on the hogs.

Mr. TOMLINSON: What did those cattle pay on the dead weight of the train?

Mr. MILLER: I will get to that in a minute. I have not got that worked out on a 20 cent rate but the average gross weight of a car of fresh meat is 64,600 pounds and the net revenue to the carrier is $30.40 per car, or 4.7 cents per hundred pounds of gross weight transported. To give the carrier the same rate per hundred pounds on gross pounds of each cattle, hogs and packing house products carried as per statement attached, the following *fates* would be necessary:

Cattle 13.89 cents on an averaging paying load of 23,800 pounds.

Hogs 17.13 cents per hundred pounds on an averaging paying load of 17,600 pounds.

Packing house products 16.13 cents per hundred pounds on an averaging paying load of 26,800 pounds. That is to get the same equivalent through. Leaving out the question of mileage, switching charges, car rental, etc., it would figure out this way: taking

2234 fresh meat at 20 cents a hundred as the standard: It would make the equivalent, cattle, 16; hogs 19.2 cents and packing house products 16.2 cents.

Com'r PROUTY: Have you figured that out taking packing house products as the standard?

Mr. MILLER: I have taken fresh meats. No, I have not.

Com'r PROUTY: What part is fresh meats and what part is packing house products?

Mr. MILLER: I do not know.

Mr. TOMLINSON: It is shown in Exhibits No. 1 and 2. I will read for your information that the tonnage of fresh meat out of Kansas City, Atchison, Leavenworth and St. Joseph during 1901 was 462,000 tons and packing house products 349,000.

Com'r PROUTY: The fresh meat exceeds the packing house products?

Mr. TOMLINSON: That is true in all the markets.

Com'r PROUTY: I think it appeared in some other hearing that the larger part of the fresh meat was consumed in this country and the larger part of the packing house products were exported.

Mr. TOMLINSON: I hardly think that is correct.

The CHAIRMAN: Mr. Miller, have you concluded your statement from the tables you have prepared?

2235 Mr. MILLER: Yes, sir.

The CHAIRMAN: Are they in shape to be filed with the stenographer?

Mr. MILLER: Yes, sir.

The CHAIRMAN: Very well; will you file them with the stenographer as an exhibit in the case in connection with your testimony?

Mr. MILLER: I will.

(The same is hereto annexed and marked "Exhibit No. 7, Miller.")

Mr. TOMLINSON: I do not know whether I asked which carried the most traffic, the 20 cent rate or the 18½ cent rate. Under which rate does the bulk of the traffic move. You have an 18½ cent proportional rate and a 20 cent local rate. Does the bulk of the traffic move under the 18½ cent rate?

Mr. MILLER: Under the 18½ cent rate.

The CHAIRMAN: Pardon me. That would be true, of course, as to the fresh meats and packing house products?

Mr. MILLER: Yes, sir.

The CHAIRMAN: There is a 20 cent local rate and an 18½ cent proportional. Most of it does go east. Therefore, the 18½ cent rate practically applies to the bulk of that traffic?

Mr. MILLER: Yes, sir.

2236 The CHAIRMAN: That is not true as to live animals?

Mr. MILLER: No, sir.

The CHAIRMAN: Since that is so, why did you use the 20 cent rate on fresh meats and packing house products instead of 18½ cents?

Mr. MILLER: My statement will cover all the rates, but I only used as a comparison the 20 cent basis because that is the rate between Kansas City and Chicago on that commodity.

Mr. TOMLINSON: If you used the figures from St. Paul the showing would be even more favorable to live stock would it not, on account of the great disparity in the rates?

Mr. MILLER: The rate would affect it materially, of course.

Mr. TOMLINSON: Do you understand what the rate on cattle and hogs is?

Mr. MILLER: Twenty five and 27½ cents.

Mr. TOMLINSON: And the fresh meat and packing house product rates are 14 and 17 cents?

Mr. MILLER: Yes, sir.

Mr. TOMLINSON: If you used those rates the disparity would be greater?

Mr. MILLER: Yes, sir.

Mr. TOMLINSON: That is all.

The CHAIRMAN: Any further questions to be asked Mr. Miller?

2237 Mr. SPENCER: I would like to ask Mr. Miller a question.

Mr. Miller, what is the result of your figuration there as to the present rate of 23½ cents on live stock as to whether it is reasonable or not?

Mr. MILLER: I think it is an exceedingly low rate. It is relatively lower than any other commodity we handle except packing house products.

Mr. SPENCER: From the figures, what would you say would be the relative rate between live-stock and packing house products?

Mr. MILLER: Leaving out the question of mileage and taking into consideration only the cost of transportation, the rates should be the same.

Mr. SPENCER: On the raw material and the packing house products?

Mr. MILLER: Yes, sir.

The CHAIRMAN: And there is nothing in your experience or in the figures you submit or in the conditions that now apply to transportation which, as I understand you, would justify a higher rate on the live animal than on the product?

Mr. MILLER: No, sir; I think the mileage paid on refrigerator cars is away out of proportion to the value received for them.

Mr. SPENCER: You think the 18½ cent rate on packing-house products is too low, do you not?

2238 Mr. MILLER: Decidedly.

Mr. SPENCER: You do not think it would be fair to reduce the 23½ cent rate to 18½ cents, do you?

Mr. MILLER: No, sir. There is no patron of our Company that gets so much service and gives so little for it as the packer.

Com'r PROUTY: You say that when Mr. Stickney put in the 18½ cent rate you met it. It seems his road at that time reached Kansas City but did not reach Omaha and Sioux City. You say that you put in the 18½ cent rate at Omaha?

Mr. MILLER: We did.

Com'r PROUTY: Why?

Mr. MILLER: It is only a short time before Mr. Stickney will have his line at Omaha, only a matter of a few months.

Com'r PROUTY: Have the rates on dressed beef and packing house products from St. Paul to Chicago been reduced since this 18½ cent rate was put in?

Mr. MILLER: Yes sir.

Com'r PROUTY: What were they before that rate was put in?

Mr. MILLER: I have forgotten.

Mr. SPENCER: The St. Paul put that rate in first from Omaha, did it not?

Mr. MILLER: Yes, sir.

2239 Mr. SPENCER: And you put it in to meet the St. Paul?

Mr. MILLER: But I think the great factor was that the Great Western contract covered Omaha and that they would have their line there soon.

Com'r PROUTY: Do you know who reduced the rate from St. Paul and why?

Mr. MILLER: No sir.

Com'r PROUTY: Has there been any reduction in the live stock rate from St. Paul?

Mr. MILLER: Not locally, no sir.

Mr. BIRD: It has been said that a rate of a cent a mile probably yields too great a profit to the owners of the refrigerator cars. If the owners and packers did not own their cars, is it not a fact that the railway companies would have to provide equipment for handling that business and in doing so each road would have to provide a very large equipment so that the aggregate railroad equipment in such a case would greatly exceed the equipment now in the service? Would not each road have to have a large equipment itself so as to get a share of the business? In other words, is it not a fact that the number of cars engaged is greatly reduced by reason of the ownership of the packers? Does it not require a smaller number of cars owned and controlled by the packers than would be necessary if each road furnished its own cars?

Mr. MILLER: That is undoubtedly true.

2240 Mr. BIRD: And that is the reason why the mileage is so great. They have just about enough cars to take care of their business and consequently they are kept busy. If you owned the cars and each road owned the cars, could they make as much mileage?

Mr. MILLER: No sir.

Mr. BIRD: And in consideration of the mileage paid on these refrigerator cars is it not fair to take into account that if they did not have their cars as they now have the expense would be very much greater to each of the roads than it is now?

Mr. MILLER: If we undertook to furnish the cars I think it would cost more.

Mr. BIRD: They would cost eleven or twelve hundred dollars each to the companies for a surplus of those cars? It is a matter of economy after all?

Mr. MILLER: If each company undertook to furnish the cars to do the business I think it would, but I think that is theoretical.

Mr. BIRD: But if it had enough cars to take care of the business it tries to get would not the number be greatly in excess of the number now?

Mr. MILLER: Very true, but I do not think you would pay any-

body but the packers a cent a mile to furnish the cars. It is only by reason of the packers controlling the cars that you pay
2241 that much.

The CHAIRMAN: Do you agree that while the mileage may make a comfortable return to the owner of the car that still it is as cheap to the railroads as it would be for them to furnish their own equipment?

Mr. MILLER: Yes, sir; but I do not think that is the cheapest way of doing it.

Mr. TOMLINSON: Mr. Miller, you were formerly connected with the Great Northern, were you not?

Mr. MILLER: Yes sir.

Mr. TOMLINSON: You are familiar with their live stock rates into St. Paul from North Dakota stations, are you not?

Mr. MILLER: Not very. I know some of them.

Mr. TOMLINSON: As an off-hand proposition, would you say they are fair and reasonable?

Mr. MILLER: They generally make them so. I do not think a comparison of rates from Minnesota and Dakota would have anything to do with the rates from Kansas City.

Mr. TOMLINSON: Ought rates in North and South Dakota to be higher or lower than rates in Iowa generally, taking into consideration density of traffic and other things?

Mr. MILLER: I think they are higher.

Mr. TOMLINSON: Do you think they ought to be higher?

Mr. MILLER: Yes, sir.

2242 Mr. TOMLINSON: Do you think also that rates from points west of the Missouri River into the Missouri River ought to be relatively higher than from east of the Missouri River into Chicago?

Mr. MILLER: Relatively, yes sir.

The CHAIRMAN: How do rates on live stock on the Great Northern road into St. Paul and similar distances compare with the rates from this territory in Iowa to Chicago?

Mr. MILLER: They are higher, because their traffic is very much lighter. There is comparatively little live stock in that country and it is very expensive to handle.

The CHAIRMAN: That seems to be all.

Mr. COWAN: One question, Mr. Miller said, as I understood, that leaving out the matter of mileage, the rates on live stock and packing house products ought to be the same. I wanted to know what he meant by leaving out of consideration the matter of mileage.

Mr. MILLER: I think what we pay for the use of the car should be taken into consideration in fixing the rate.

Mr. COWAN: And you ought to have a higher rate for the product than for the live animal?

Mr. MILLER: No, it does not figure out that way.

Mr. COWAN: Just what did you mean?

Mr. MILLER: Oh, yes, you are right.

Mr. TOMLINSON: As a general proposition, are not rates
2243 throughout the United States adjusted so that the rates on the product are higher than on the raw material?

Mr. MILLER: That is generally the basis.

Mr. TOMLINSON: You think that is generally a correct basis.

Mr. MILLER: Yes sir.

Mr. BIRD: Speaking of the application of the reduced rates on provisions from Omaha, making it the same as St. Joe and Kansas City and the reason for putting the rates in at South Omaha, is it a fact that a considerable territory west of the Missouri River is common to Omaha and St. Joes? Is there not a considerable area of territory from which the rates to Omaha and St. Joe are the same?

Mr. MILLER: Yes, sir.

Mr. BIRD: And if the rate had not been made from Omaha the conditions so far as that particular country is concerned would not have been changed, because the stock would take the same area to St. Joe as Omaha and avail itself of the 12 cent rate or of the 20 cent rate.

Mr. MILLER: That is true.

Mr. BIRD: Relative conditions were not materially changed by the application of those rates to South Omaha in that respect.

Mr. MILLER: That is right.

Com'r PROUTY: Mr. Bird, who first put in the reduced St.
2244 Paul rate?

Mr. BIRD: I think it was the Burlington.

Com'r PROUTY: Mr. Miller does not think so.

Mr. BIRD: I am not clear about it.

Mr. MILLER: I thought it was the Wisconsin Central.

Mr. BIRD: I will admit I was mistaken. I did have in mind that it was the Burlington because they suggested it one time.

Com'r PROUTY: Mr. Miller, why should the rate be reduced on packing house products from St. Paul to Chicago because it had been reduced from Omaha?

Mr. MILLER: I do not know any good reason for it. We would not do it voluntarily—would not make any of these reductions voluntarily.

(Witness excused.)

2245 *Comparison of Earnings.*

Kansas City to Chicago.

490 miles.

Commodity.	Rates.			
Gross per car:	12	18½	20	23½
Cattle	$28.56	$44.03	$47.60	$55.93
Hogs	21.12	32.56	35.20	41.36
Fresh meat	.....	39.96	43.20	50.76
P. H. P.	.....	49.58	53.60	62.98
Net per car:				
Cattle	22.18	37.65	41.22	49.55
Hogs	14.74	26.18	28.82	34.98
Fresh meat	.....	27.16	30.40	37.96
P. H. P	.....	36.78	40.80	50.18
Per 100 lbs. of gross weight carried:				
Cattle	.039	.0663	.0725	.0872
Hogs	.0291	.0517	.0569	.0691
Fresh meat	.....	.0420	.047	.0588
P. H. P.	.....	.0567	.063	.0774

2246 Items of Cost and Revenue per Car Incidental to the Transportation of Live Stock and Packing House Products from Kansas City to Chicago via C. B. & Q. Lines, Distance 490 Miles.

	Live stock per 36 ... car	Fresh meat in refgr. cars.	P. H. P. in refgr. cars.
Cars used.	Carrier's.	Owner's.	Owner's.
Rental rate per mile on owner's cars	....	1c.	1c.
Cost per mile of maintenance, interest, depreciation, when carriers' cars used	.006		
Mileage per car paid private owner for round trip to Chicago	....	$9.80	$9.80
Average weight of freight paying contents:			
Cattle	23,800		
Hogs	17,600	21,600	26,800
Average weight of preservatives	....	6,000	4,000
Average weight bedding	2,000		
Average weight racks, hooks, boxes, ice cones, etc	....	3,000	
Weight of total contents of cars:			
Cattle	25,800	30,600	30,800
Hogs	19,600		
Average weight of cars used	31,000	34,000	34,000
Gross weight transported:			
Cattle	56,800	64,600	64,800
Hogs	50,600		
Percentage of paying weight:			
Cattle	41.9	33.4	41.2
Hogs	34.8		

2247 *Live Stock.*

	Rates.		
Average revenue per car:	18½	23½	12c.
Cattle	$44.03	$55.93	$28.56
Hogs	36.56	41.36	21.12
Deduct for car maintenance, depreciation and interest,—980 miles	5.88	5.88	5.88
Deduct for switching absorbed at Kansas City	.50	.50	.50
Net Revenue:			
Cattle	37.65	49.55	22.18
Hogs	26.18	34.98	14.74
Revenue per 100 lbs. based on gross weight transported:			
Cattle	.0663	.0872	.039
Hogs	.0517	.0691	.0291
Net revenue per car per mile of loaded haul:			
Cattle	.0768	1.011	.453
Hogs	.0534	.0714	.0301
Per cent. of gross weight per car to gross weight of fresh meat per car:			
Cattle	.879		
Hogs	.783		
Per cent. of gross weight per car to gross weight of P. H. P. per car:			
Cattle	.876		
Hogs	.781		

2248 Kansas City to Chicago.

490 miles.

	Fresh meat.		Pkg. house products.	
	20c.	23½c.	20c.	23½c.
Average revenue per car	$43.20	$50.76	$53.60	$62.98
Deduct for car mileage	9.80	9.80	9.80	9.80
Deduct for switching at Kansas City	3.00	3.00	3.00	3.00
Average net revenue per car	30.40	37.96	40.80	50.18
Net revenue per 100 lbs. of gross weight carried	.0470	.0588	.063	.0774
Net revenue per car per mile—490 miles	.0620	.0775	.0832	.1024

2249 As shown by attached statements, the average gross weight of a car of Fresh Meat is 64,000 pounds and the net revenue to carrier is $30.40 per car, or 4.7 cents per 100 pounds of gross weight transported.

To give carrier the same rate per 100 pounds on gross pounds of each Cattle, Hogs and Packing House Product carried, as per statement attached, the following rates would be necessary:

Cattle .1389 per 100 lbs. on average paying load of 23,800 lbs.
Hogs .1713 " " " " " " " " 17,600 "
P. H. P. .1613 " " " " " " " " 26,800 "

Above rates are arrived at by adding to car earnings $5.88 mileage and 50 cents loading for live stock.

2250 Eliminating the items, car rental, car maintenance, etc., and switching charges, the following comparison is made:

Fresh Meat.

Gross weight 64,600 per car: paying contents 21,600 at 20 cents $43.20

or 6.7 cents per 100 lbs. on gross weight carried.

To obtain same pay per 100 lbs. of gross weight transported the following rates would be required:

	Gross weight transported.	Weight of revenue paying contents.	Rate per 100 lbs. necessary to equalize.
Cattle	56,800	23,800	.16
Hogs	50,600	17,600	.92
P. H. P.	64,800	26,800	.62

2251 Mr. COWAN: There is an explanatory letter that we do not care to read. If the Court desires, however, to inspect it, and the gentlemen desire to read it, we offer it but do not care to take the time to read it at this time.

Mr. LYNDE: Do you offer the whole testimony Mr. Cowan?

Mr. COWAN: That has been repeatedly stated.

Mr. LYNDE: I don't know what your offer is; I would like to know.

Mr. DAWES: I think it is fair for the purpose of the record that he should state whether he offers the testimony of Mr. Miller.

Mr. COWAN: That is what I say.

Mr. DAWES: In an entirety?

Mr. COWAN: I said I offered the testimony.

The COURT: I think so. I hold you do offer it. You can read whatever you want of it.

Mr. SEVERANCE: How do you propose to get it into the record Mr. Cowan, if you don't read it?

Mr. COWAN: The only way is to file it.

The COURT: If you don't insist on his reading it, he need not do it.

Mr. SEVERANCE: We do not insist on it. But the stenographer is taking down everything that transpires in court. I assume your Honor, these are in the nature of depositions, and I suppose they are being admitted practically in the same way as depositions. Ordinarily a deposition won't go into the record unless it is read.

2252 Mr. COWAN: Well, we have read his testimony as given before the Commission, all of it. Now, then, he files subsequently an explanatory letter with regard to it.

The COURT: If the gentlemen say so, I will be very glad to hear that.

Mr. COWAN: Which we do not offer except for the purpose of informing the Court what is in the record, we are not offering it as testimony.

Mr. SEVERANCE: Then, he does not offer all the testimony, because this is explanatory.

Mr. COWAN: I have offered all the testimony that is in the record.

The COURT: It is in the record.

Mr. SEVERANCE: Before the Commission adjourned, I understand Mr. Cowan, Mr. Miller stated he desired to offer this letter in explanation of some things he said.

The COURT: I think if it helps you any, you ought to read it.

Mr. SEVERANCE: I don't ask him to read it; I am not asking him to read any of it.

Mr. DAWES: You can give a copy of it to the stenographer.

Mr. COWAN: I will read it to save time.

Mr. SEVERANCE: It either ought to go in, or not.

Mr. COWAN: I will read the letter as explanatory of his statement, the whole of it.

2253 Chicago, Burlington & Quincy Railway Company.

Office of First Vice-President.

CHICAGO, ILLS., *March* 19, 1903.

Honorable Martin A. Knapp, Chairman, Interstate Commerce Commission, Washington, D. C.

DEAR SIR: In the matter of the complaint of Chicago Live Stock Exchange involving live-stock rates between Missouri River points

and Chicago and the relation of same to the rates charged on packing house product, etc.:

On January 22nd our General Attorney, Mr. C. M. Dawes, presented to the Commission, then sitting in this city, our request for permission to file an additional statement as part of my testimony in this case. This permission was granted and I therefore beg leave to submit for your consideration the following notes, the purpose of which is to make more clear the testimony which I gave before the Commission and to lead to a better understanding of those facts which the Commission apparently wished to develop:

1. I stated that 21600 pounds was the average weight of dressed meat shipped in private refrigerator cars, according to a statement furnished me by Superintendent of the Western Railway Weighing Association covering 100 cars.

2254 I have since compiled a statement of all fresh meat shipped from Kansas City in private refrigerator cars by the lines of this company in the period October to December, 1902, inclusive, a total of 1231 cars, and the average weight of same was 22433 pounds. I am advised that the average loading of cars during this period probably exceeded the average loading for the entire year, on account of car shortage, and with this additional information I would state if again called upon, that the average weight of dressed meat in private refrigerator cars is 22000 pounds per car.

2. I stated that 26800 pounds was the average weight of packing house product as shipped in private refrigerator cars, this being based on a statement furnished me by Superintendent of the Western Railway Weighing Association covering 100 cars received at Chicago by various lines.

I have since compiled a statement which includes all packing house product shipped in private refrigerator cars from Kansas City by this Company's lines in the period October to December, 1902, inclusive, 332 cars, and the average weight is 29425 pounds. I am advised that the average loading of cars during this period probably exceeded the average loading for the entire year, and with this additional information I would state, if again called upon, that

2255 the average weight of packing house product shipped in private refrigerator cars is 2900 pounds.

3. I stated that 23800 pounds was the average weight of cattle in 36-ft. cars, this being based on a statement furnished by Superintendent of the Western Railway Weighing Association covering 255 cars shipped to Chicago over various lines from Iowa, Illinois and Missouri points. A similar statement covering three months' shipments by this Company's lines from Kansas City in the period October to December, 1902, inclusive, shows that 497 cars, or 65.8 per cent. of the total shipments were in 36-ft. cars, and that the average weight was 23116 pounds; the difference in the average weight per car of cattle shipped from Kansas City and the average weight per car of cattle received at Chicago being due to the fact that the Chicago receipts largely originated in territory which produces heavier cattle than are shipped from Kansas City. These figures suggest 23500 pounds as the average weight of the cattle shipped in 36-ft. cars.

4. I stated that the average weight of hogs, single deck loads, in 36-ft. cars was 17600 pounds. This was based on a statement furnished by Superintendent of the Western Railway Weighing Association showing the weight of 224 cars shipped to Chicago by various roads from Iowa, Illinois, and Missouri points. It is my
2256 opinion that the average weight of hogs shipped over this company's lines in 36 foot cars would not exceed 17,000 pounds.

"5th. I stated that refrigerator cars used in transportation of fresh meat weighed 34,000 pounds, average weight of preservatives, 6,000 pounds; average weight of equipment, 3,000 pounds; total, 43,000 pounds. We have since weighed a total of 52 private refrigerator cars of various ownership returning empty to the Missouri River shipping points, and the average weight of these 52 cars is 43,590 pounds. Considering the season of the year and prevailing weather conditions, it is safe to assume that many of these cars carried a portion of the original charge of ice. In view of the above figures and further information which has been obtained, I conclude that the figures which are shown in the exhibits filed with my testimony are not correct, and would substitute the following figures as representing to the best of my knowledge and belief the average weights in connection with shipments of fresh meat; private refrigerator cars empty, including equipment, 40,000 pounds; average weight of preservative, 6,000 pounds; total, 46,000 pounds. The average weight of private refrigerator cars as employed in the transportation of packing house product was stated at 34,000 pounds. The average weight of preservatives with such shipments at 4,000 pounds. For reasons which are stated in the preceding paragraph, I would substitute the following figures: Average weight of refrigerator
2257 cars used for packing house product, 39,000 pounds; average weight of preservatives, 4,000 pounds; total, 43,000 pounds.

"6th. Terminal charges on packing house product and live stock, namely, loading and unloading charges, switching charges to other lines are difficult of comparison. They stand in a different relation at different terminal points, and the comparison would not be the same in the case of any two carriers because their means of access to the places of loading and unloading are seldom the same at any one point, nor is their relative situation the same at any two points. For illustration: This company reaches the Kansas City stock yards with its own rails, therefore, does not pay any switching charge on live stock, but is obliged to pay $3 per car on packing house products shipped from the same point. At St. Joseph, we pay a switching charge of $1 per car on live stock, while the Chicago Great-Western pays a total of $4 per car. We pay $1.50 per car on packing house products shipped from St. Joseph, while the Chicago Great-Western pays a total of $4.50 per car. At Chicago we pay a switching charge of $3.50 per car on packing house product delivered at Union Stock Yards, which charge includes return of the empty car to our tracks.

We pay from $2 to $5 per car for switching packing house
2258 products delivered to other lines in the City of Chicago; on live stock delivered at Union Stock Yards we charge $2 per

car in addition to the regular tariff rate and pay for trackage and unloading $1.75 per car, which does not include the cost of our own switching service. There is no difference in the practice of the several lines that deliver live stock and packing house product at Chicago and Union Stock Yards from Western points.

"7th. I stated that 10 per cent. of the stock cars and refrigerator cars were loaded on return trip. Subsequent inquiry confirms this statement. But it is nevertheless fair to charge the east bound shipments of either live stock or packing house product with the cost of returning the empty car to original loading point, because under normal conditions, the preponderance of tonnage is eastbound. We always have a sufficient number of box cars moving westbound to accommodate all westbound freight. While we may occasionally serve our own convenience by loading such freight into stock and refrigerator cars, no material saving is thereby accomplished.

"8th. A statement compiled in connection with my testimony before the Commission shows the average gross weight carried and resulting revenue in connection with fresh meat shipments and the rates which would be necessary to insure the same pay per
2259 hundred pounds of gross weight carried in the case of live-stock, etc.

In connection with this statement the difference in train tonnage according to gross weight per car should be considered. For illustration, an engine which could haul 1548 tons gross weight of dressed meat, or 48 cars weighing 32¼ tons each, could only haul 1431 tons of cattle, or 53 cars at 27 tons gross per car, the rate of speed being the same in each case. This is based on the rating of Class H-2 engine, and class C, or slow train from Galesburg to Chicago, as shown by book of tonnage ratings for freight engines, issued January 1, 1902, a copy of which is herewith submitted. This difference is due to wheel friction, and even greater allowance should be made for this item on those roads or on those divisions of this road where the curvature is greater than it is between Galesburg and Chicago.

"9th. In comparing rates of cost of service and profit incidental to the transportation of live stock and fresh meat, packing house product and dead freight, due consideration should be given to difference in the speed of trains and the consequent difference in the number of tons of each class of freight which may be hauled by an engine of a given capacity. As shown in the book of tonnage ratings for freight engines referred to in paragraph 8,

2260 Fresh Meat is hauled in Class "A" trains.
Live Stock " " " " "B" "
Dead Weight " " " " "C" "

To illustrate the difference in the train tonnage for engines of a given class hauling "dead freight," live stock and fresh meat, the following figures are submitted, the same being based approximately on the ratings which are shown in the exhibit "Tonnage Ratings for Freight Engines" previously referred to:

Class H-2 Engine, Galesburg to Chicago.

	Cars.	Gross tons per car.	Total tons.	Tonnage per cent.
"Dead Freight,"				
Class "C" Train.....	41	40	1640	169
Cattle,				
Class "B" Train.....	39	37	1053	109
Fresh Meat,				
Class "A" Train.....	30	32¼	967	100

10. The maximum weight capacity of this Company's 36-ft. stock cars is 60000 pounds; in connection with the movement of live stock from Missouri River to Chicago we estimate the revenue for round trip haul of car as follows:

Cattle, 23500 at rate 23½¢ per 100 lbs., earnings..... $55.22
Hogs, 17000 " " 23½¢ " " " " $39.95

11. A large proportion of this Company's box car equipment has capacity 60000 pounds; a still greater proportion has capacity
2261 50000 pounds or more. Following named commodities can be loaded and are commonly loaded to full capacity of car and the average loading of these commodities may be fairly stated as 25 tons. We therefore estimate as follows the earnings arising from the transportation of these commodities between Chicago and Missouri River points and in estimating the cost of service we would consider the cost of loaded haul only, because the cars are, as a rule, loaded with other freight on return trip:

Corn,—	50000 lbs. at	17¢	per	100	lbs.	.....	$85.00
Wheat,—	50000 " "	19¢	"	"	"	.....	95.00
Soft coal,—	50000 " "	$2.25	"	ton,	"	.....	56.25
Hard coal,—	50000 "	$2.50	"	"		.....	62.50
Scrap iron,—	50000 "	15¢	100	"		.....	75.00
Brick,—	50000 "	16¢	"	"		.....	80.00
Wire,—	50000 "	27¢	"	"		.....	135.00
Nails,—	50000 "	27¢	"	"		.....	135.00
Coffee,—	50000 "	27¢	"	"		.....	135.00
Sugar,—	50000 "	27¢	"	"		.....	135.00
Canned Goods,	50000 "	27¢	"	"		.....	135.00

12. In my oral testimony I stated, as a general proposition, that the rate on a finished product should not be less than the rate on the original raw material; I would not wish the Commission to understand this as meaning that the rates on the raw material and on the finished product of same should be the same, or that the rate
2262 on the raw material should be based on the rate which is charged for transportation of the finished product, because it is the general practice of railroad carriers, and in my opinion correct, to fix the rate on raw material in its proper relation to the rates

on other kinds of freight transported and then fix the rate on the finished product, taking into consideration any difference in conditions which would affect the cost or value of service performed.

13. In my oral testimony I stated that the rates on live stock and packing house product should be the same, leaving out of consideration the item of car mileage; to prevent any misunderstanding I desire to call your attention to the fact that the term "packing house product" as used in framing the exhibits filed with my testimony and as generally employed in the discussion of this complaint does not embrace dressed beef or other fresh meats, and in determining the relation of rates on cattle, hogs, fresh meats and packing house product the carriers should consider, and it is assumed that the Commission will consider, the difference in conditions attending the transportation of each class of freight and the effect of these conditions on the cost of service.

14. I stated that our rates on live stock are relatively lower than our rates on any other commodity except live stock products, and, if it is my privilege to do so, I wish to supplement that statement
2263 by saying that it is our desire to so adjust the live stock rates as to put them in proper relation to the rates which are charged for the transportation of other commodities, and having accomplished this we would establish the rates on the different kinds of live stock products in their proper relation to the rates on live stock, but if we are prevented from making a proper adjustment of these rates by the action of a competitor who established and guarantees for a stated term rates on the product of live stock, which rates are of themselves unreasonably low and out of proportion with the rates charged on other kinds of freight, we do not for that reason conceive it to be our duty to make abnormally low rates on live stock or other kinds of freight on which we may be charging relatively higher rates but which are of themselves just and reasonable.

15. If such further explanation of my testimony is permissible, I will also state that we do not believe our right to charge on live stock, rates which are in themselves reasonable and remunerative, should be prejudiced or taken away because we engage in the transportation of live stock products at rates which are relatively lower or actually lower when such lower rates have been forced upon us by a competing line which does not see fit to adjust its tariff in accordance with rules and principles which it is our desire to follow and which, in our opinion, should govern the making of rates
2264 by all carriers.

16. As indicating the relative importance of this Company's traffic in live stock and its traffic in packing house product and fresh meat, the following statement of such shipments handled during the periods named is respectfully submitted:

For the year 1901 Burlington System lines carried to the markets of Chicago, Kansas City, St. Joseph, Omaha and Nebraska City, 111,841 cars of live stock, and in the same period carried out of Kansas City, St. Joseph, Omaha and Nebraska City, 16,242 cars of fresh meat and packing house product.

From January 1st to December 31st, 1902, there was shipped into

the markets of Chicago, St. Joseph, Omaha, Kansas City and Nebraska City over the lines of the Burlington System 104,581 cars of live stock, and during the same period we carried out of Omaha, Kansas City, St. Joseph, and Nebraska City destined Chicago, Mississippi River and Illinois points 23,217 cars of fresh meat and packing house product.

If the Commission so desires, I will be very glad to submit detailed statements in support of the foregoing and will also be glad to furnish any further information which may be desired with respect to the business handled over this Company's lines.

Yours truly,

D. MILLER,
First V.-Pres't.

2265 Mr. COWAN: We offer in evidence, without reading it, the book of tonnage ratings submitted in connection with that testimony.

The COURT: Do you want that copied into the record?

Mr. COWAN: Such portions only as are referred to.

The COURT: Well, you want to fix it so the stenographer can get the record.

Mr. COWAN: I will be compelled to refer to Mr. Tomlinson, about the amount that we want to get in.

Mr. DAWES: Mr. Miller has testified as to the particular ratings and submits the book in verification of the evidence. If the book bears out the ratings he gives, it doesn't seem to be necessary to put it in.

Mr. COWAN: I rather think you are correct about that, but if there is some portion that we want to submit, we will select that out.

Mr. DAWES: He says this is the rating, and the book shows it. And it will be sufficient if we accept his figures.

A recess was here taken until 2:00 o'clock p. m. of the same day, Thursday, October 5, 1905.

2266 THURSDAY, *October 5*, 1905—2 o'clock p. m.

Court met pursuant to adjournment.

Counsel present same as before.

Mr. COWAN: I would like to offer in evidence next——

Mr. SEVERANCE: What about Mr. Cusey?

Mr. COWAN: He is here and will be in as soon as I get through presenting this testimony.

The COURT: After you present all this testimony?

Mr. DAWES: May he not be called now, your Honor? I do not think it will interrupt the continuity of Mr. Cowan's case.

Mr. COWAN: I do not see that there is any special reason for stopping now to have him come in.

The COURT: How long do you expect it will take you to read this?

Mr. COWAN: This testimony is comparatively short.

The COURT: I think they are entitled to have him put on.

Mr. DAWES: There are some of these gentlemen here that are waiting for him and I ask it simply as a matter of courtesy.

Mr. COWAN: The only reason for the delay is that in refer-
2267 ence to the hides, some of his statements had the green weight of the hide and did not have the dry weight and I have asked him to fix that up. As soon as he has that fixed up, we are ready to examine him.

We now offer the testimony of Mr. W. B. Biddle, the testimony given by him before the Interstate Commerce Commission beginning at page 224.

Mr. SEVERANCE: It is understood that our objection to the other stands to this, the same way.

The COURT: Certainly.

Mr. COWAN: If I may be permitted to state it, without doing it under oath, I will say that Mr. Biddle at that time was the Freight Traffic Manager of the Atchison, Topeka & Santa Fe Railway Company and is now Vice President in charge of all the traffic on the Rock Island System.

Mr. LYNDE: Yes, and living in Chicago and having his office here.

Mr. SEVERANCE: You admit that he lives in Chicago and has been here in Chicago during the trial of this case.

Mr. COWAN: No, he has not. He has been absent but that would not make any difference. He will be here and I will admit that I could subpœna him and get him here before this trial closes, so far as I know.

Mr. SEVERANCE: You admit that he has been within the
2268 jurisdiction of this court since this case was set for hearing.

Mr. COWAN: No, I don't know about that. I do know that he left here—

The COURT: Since it was set down for trial, he says.

Mr. COWAN: Oh, certainly, he could have been subpœnaed for this trial.

(The said testimony of the witness Biddle given before the Interstate Commerce Commission at the hearing aforesaid and so offered in evidence by counsel for complainant, is in the words and figures following, to wit:)

2269 W. B. BIDDLE, the witness called on behalf of complainant, being duly sworn, testified as follows:

Mr. TOMLINSON: Kindly state your name and official position.

Mr. BIDDLE: W. B. Biddle; Freight Traffic Manager of the Atchison System.

Mr. TOMLINSON: You have been present during the examination of the previous witnesses and doubtless understand the issue. What action, if any, did the Santa Fe take at the time the Great Western is reputed to have made a contract on dressed meat and packing house products and published a rate thereunder?

Mr. BIDDLE: We simultaneously with the taking effect of the Great Western rate, or probably a little later, we published the same

rate on packing house products and fresh meat that the Great Western did.

Mr. TOMLINSON: Did you take any other action regarding live stock rates?

Mr. BIDDLE: Either then or a little later we reduced the rate on live stock.

Mr. TOMLINSON: To what figure did you reduce the rate on live stock?

Mr. BIDDLE: To 12 cents, from the Missouri river to Chicago.

2270 Mr. TOMLINSON: Did you apply that rate intermediate?

Mr. BIDDLE: Yes, sir.

Mr. TOMLINSON: Do you know whether the other lines apply that intermediate or not?

Mr. BIDDLE: My information is that they do not.

Mr. TOMLINSON: Without asking you as to the reasonableness of that 12 cent rate on live stock, or its remunerativeness, I will ask you to state whether the present relation between the rates on fresh meats and packing house products of 18½ cents proportional from the Missouri river to Chicago, and the 12 cent rate on live stock represents your views as to what is the proper relation between the rate on the product and on live stock.

Mr. BIDDLE: I do not know that it does, necessarily. In other words, I do not know that a difference of six cents per hundred pounds between the rate on one commodity and the other represents our ideas of the proper difference, nor do I know that a rate of 150 per cent. of the rate in one case of what it is in the other represents our ideas, but our opinion is that there should be a difference in the rate on live stock and on the product of the live stock.

Mr. TOMLINSON: And your view is that live stock should be higher or less than the product?

Mr. BIDDLE: That the product should be higher than the raw material.

2271 Mr. TOMLINSON: You heard Mr. Stickney's statement here this morning. Do you agree with his views in any sense on that point?

Mr. BIDDLE: I did not hear all of Mr. Stickney's testimony.

Mr. TOMLINSON: What do you figure that the rate of 18½ cents proportional from Kansas City to Chicago pays you as compared with the 12-cent rate on cattle?

Mr. BIDDLE: The rate of 12 cents per hundred pounds on live stock from the Missouri River to Chicago pays the Atchison road as much in gross for the transportation of a carload of live stock from Kansas City to Chicago as the 18½ cent rate pays us for the transportation of a carload of fresh meat.

Mr. TOMLINSON: How do you arrive at that conclusion?

Mr. BIDDLE: By actual figures.

Mr. TOMLINSON: Kindly give me—in order that it may go in the record—the basis for that conclusion.

Mr. BIDDLE: When I say it pays us as much it may be within a few cents or a dollar a car, but approximately the gross revenue—

and when I say the gross revenue I mean the charges that we collect and retain after paying the terminal charges, switching charges, mileage, etc.,—they are practically the same in one case as in the other. I could sit down and figure a shipment for you.

2272 Mr. TOMLINSON: What is the average weight of the contents of a fresh meat car?

Mr. BIDDLE: Twenty thousand pounds.

Mr. TOMLINSON: Does it ever average more than that?

Mr. BIDDLE: It may average a little more than that, but the minimum weight of fresh meat is twenty thousand pounds, and my experience is that it is the policy of the packers to load just as near the minimum as they can.

Mr. TOMLINSON: They do that in order to enjoy the mileage on their refrigerator cars, do they not?

Mr. BIDDLE: I presume that is one reason.

Mr. TOMLINSON: That is probably the most important reason in your mind, is it not?

Mr. BIDDLE: I cannot tell you what the reasons of the packers are. I simply know my experience in the handling of that business shows that the loading of the cars is confined practically to the minimum.

Mr. TOMLINSON: 18½ cents per 100 pounds for twenty thousand pounds pays your company $37 gross revenue. What switching, if any, do you absorb; or, would be compelled to pay at Kansas City?

Mr. BIDDLE: I think there is an expense of about $3 a car in getting it to our line at Kansas City on an average; possibly $4.

2273 Mr. TOMLINSON: Well, assuming that it is $3; what is the cost in mileage on refrigerator cars?

Mr. BIDDLE: It is $9.16 cents by the Atchison road.

Mr. TOMLINSON: In delivering that car to the eastern line, what will it cost you at Chicago?

Mr. BIDDLE: I don't know that we bring any live stock into Chicago destined for the east. Our deliveries are all made——

Mr. TOMLINSON: I mean fresh meat.

Mr. BIDDLE: Our deliveries are all made via Illinois Junction points, where there is no expense except of setting it in for the connection. That is done because it is a matter of economy in time.

Mr. TOMLINSON: You save, by delivering at these outlying junctions. That makes a total expense of $12.16, which, according to my figures, leaves about $24.80.

Mr. BIDDLE: I should say we earn about $25 a car.

Mr. TOMLINSON: And you earn on cattle, at 22,000 pounds at 12 cents, how much?

Mr. BIDDLE: You can figure it up.

Mr. TOMLINSON: $26.40; is that correct?

Mr. BIDDLE: It is practically the same as the other.

The CHAIRMAN: In that calculation you do not allow anything for the interest on the cost of your car, and keeping it in repair; in other words, you make no deduction there which corre-

2274 sponds to the mileage you pay on the car which is furnished by somebody else and maintained by somebody else?

Mr. BIDDLE: That is true, Mr. Chairman. This calculation is

based entirely on dressed meats, which is loaded in cars furnished by the packer and loaded by them, and on live stock at 12 cent rate, which is taken in our own equipment.

Mr. FIFER: If you balance the calculation, how would it stand?

Mr. BIDDLE: I do not think I am qualified to testify as to what deductions ought to be made from that freight revenue for wear and tear on our equipment as compared with the mileage we pay the packers for the refrigerator cars. There is something over a dollar in favor of the live stock shipment.

Mr. HANSON: You have not considered the return haul of the car.

Mr. BIDDLE: We return a heavier car in the case of packing house products and dressed beef than we do in live stock. Not only that, but I want to say, in reply to a question that Mr. Hanson has asked, that we are required to practically return the refrigerator cars to the packers; at practically the same speed at which we ship the product, while, in our own equipment, we load a large percentage back.

2275 Mr. TOMLINSON: What is the average weight of a live stock car?

Mr. BIDDLE: Well, I think that would be difficult for anyone to say, because the weight has changed so. I think probably it would be 26 or 27 thousand pounds.

Mr. TOMLINSON: And the average weight of a refrigerator car would be what?

Mr. BIDDLE: They run all the way—the cars that I have made analysis of, and that we handle—all the way from 32 and 33 thousand to 45 thousand pounds.

Mr. TOMLINSON: They average somewhere around ten thousand pounds above the average of the live stock cars?

Mr. BIDDLE: No, I do not think so. I do not think that they average in the case of the cars that are in the fresh meat trade is ten thousand pounds in excess of the weight of our live stock equipment, because the heavier cars are in the California fruit trade.

Mr. TOMLINSON: What would you think would be a safe average of the gross weight of the refrigerator cars in the meat business between the Missouri River and Chicago?

Mr. BIDDLE: I should think they would probably run from 33 to 34 thousand pounds.

Mr. TOMLINSON: Do you know how much ice and salt is usually loaded in these refrigerator cars?

2276 Mr. BIDDLE: It depends altogether on the season of the year. I should say that it would probably average 3 tons of ice from the point of shipment and about 20 per cent. of the weight of ice in salt.

Commissioner FIFER: Is that for the year round?

Mr. BIDDLE: Well, there is more ice required at certain seasons than others, of course.

Commissioner FIFER: Is that average that you gave for the whole twelve months of the year?

Mr. BIDDLE: I doubt if it would run as high as that the year round.

Mr. BIRD: That is only in extreme cases, in very hot weather?

Mr. BIDDLE: Yes, sir.

Mr. TOMLINSON: Fresh meat is iced at all seasons of the year, is it not, Mr. Biddle?

Mr. BIDDLE: I think it is.

Mr. TOMLINSON: Is there any difference between the service accorded live stock and its products as to speed of transportation by railroads?

Mr. BIDDLE: Well, so far as we are concerned, if there is any difference, it is in favor of live stock in the way of lesser speed required than it is in the transportation of dressed meats.

Mr. TOMLINSON: It is in favor of live stock, as against fresh meat?

2277 Mr. BIDDLE: Yes, sir.

Mr. TOMLINSON: Is there any difference in the risk involved in the transportation of these products, leaving out of the question the relative value of them?

Mr. BIDDLE: I think there is very little.

Mr. TOMLINSON: And if you consider the relative value of the two commodities, naturally the risk would be a little greater on account of the increased value of the product, would it not?

Mr. BIDDLE: Not only on account of the increased value of the products, but on account of the fact that it is handled in equipment not the property of the railroad company, and not subject to their instruction or supervision or anything more than the inspection that comes over the line.

Mr. TOMLINSON: Do you mean to say that this equipment of the packers is not as good as your own refrigerator cars?

Mr. BIDDLE: My judgment and understanding of it is that the equipment built and used by the packers today would not be accepted as standard by our company.

Mr. TOMLINSON: Do you think that claims for loss and damage are any more frequent on live stock than on fresh meats and products from Missouri river points?

Mr. BIDDLE: Yes, sir; there is a great deal—they are a great deal more frequent with us because we handle a great deal
2278 more of it. I do not know about that from the Missouri river.

Mr. TOMLINSON: I mean from points east of the Missouri river. You say claims are paid more frequently on live stock.

Mr. BIDDLE: I thought you said, or asked, as to claims arising from the transportation of live stock, that they were greater than from the transportation of dressed meat. No, I do not think so, for the same number of cars. Claims may be more frequently presented, but I do not know that any larger percentage of them is recognized or paid.

Mr. TOMLINSON: As a general proposition, don't you think the rates on the products should be higher than the rates on the raw material, and is it not generally recognized; is not that principle generally recognized by the railroads throughout the United States?

Mr. BIDDLE: That is my belief, that that is the proper principle, and that it is generally recognized.

Mr. TOMLINSON: Can you recall any single rates except these rates between the Missouri River and Chicago where that principle is not observed?

Mr. BIDDLE: Oh, yes; practically all of the products of grain are handled at the grain rates throughout the country. Flour is taken at the same rate as wheat, and some other products.

2279 Mr. TOMLINSON: That is the only instance?

Mr. BIDDLE: That is the only important commodity that I recall now.

Mr. TOMLINSON: There is not any instance where they haul the raw material for less than the product?

Mr. BIDDLE: If there is, I do not recall it.

Mr. TOMLINSON: Have you sufficient information to express an opinion as to what the value of a refrigerator car is per mile of railroad? That is, are they really worth a cent a mile?

Mr. BIDDLE: I do not think that I could express any opinion about that that would be of any value to you. I know it has been conceded by the railroads up to this time that the private refrigerator car was not only a necessity, but possibly it was cheaper for the company to pay mileage on private cars than it was to own its own equipment. I think that is undoubtedly true today so far as the transportation of fresh meats and that sort of thing are concerned. So far as our own company is concerned we are building our own refrigerator cars and it has discontinued the use of private cars in the refrigerator business.

Mr. TOMLINSON: There was some attempt made some years ago to reduce the mileage on refrigerator cars down to six mills, was there not?

2280 Mr. BIDDLE: My recollection is that an attempt was made to procure the consent of private car lines to accept three-quarters of a cent, but leaving out of consideration the question as to whether that was a reasonable or proper mileage, any effort in that direction was defeated, I think, by the fact that there was a contract in effect which compelled the payment of one cent per mile between the Missouri River and Chicago.

Mr. TOMLINSON: What proportion of the products of live stock shipped east from Kansas City and St. Joe move at this 18½ cent rate, and what proportion moves under the 20 cent rate?

Mr. BIDDLE: I have not any information about that, but I think a very small percentage of it would move at the higher rate. I have no figures on that, however. You understand that I have had no preparation in this case at all. The case was dismissed so far as our company was concerned, and I did not suppose I would be brought into it until I got a subpœna from you.

Mr. TOMLINSON: I would like to have you explain about packing house product rate. What is the average weight of packing house products?

Mr. BIDDLE: The minimum is 26 thousand pounds and I think the average loading of packing house products will run somewhat

over the minimum. I think that the same conditions that
2281 influence the shippers in loading the cars as near the minimum as possible govern in respect to packing house products as well as fresh meats.

Mr. TOMLINSON: West of the river the minimum is 24 thousand pounds, is it not?

Mr. BIDDLE: Well, I think it has been 24 thousand pounds east of the river until recently.

Mr. TOMLINSON: It was 22 thousand pounds until recently.

Mr. BIDDLE: I am not altogether familiar with the changes in classification.

Mr. TOMLINSON: Then the minimum of 26 thousand pounds is not uniform by any means on packing house products?

Mr. BIDDLE: No, I do not know that the minimum on dressed beef or live stock is uniform throughout the country.

Mr. TOMLINSON: What is the average weight of a carload of hogs according to your knowledge?

Mr. BIDDLE: I doubt if it runs much over the minimum. I do not know but what the minimum is——

Mr. TOMLINSON: The same thing is true of cattle?

Mr. BIDDLE: I think so. I think the minimum was established on the idea that it was reasonable for the loading. I imagine that the live stock people would kick if they were called upon to pay anything in excess for any length of time over what they can get into the car.

Mr. KELLOGG: Mr. Biddle, what was the rate on cattle from Kansas City to Chicago prior to putting in a 12-cent rate.

2282 Mr. BIDDLE: I think it was 23½ cent.

Mr. KELLOGG: How many years has that been in existence?

Mr. BIDDLE: Well, for a long time, Mr. Kellogg.

Mr. KELLOGG: On your line?

Mr. BIDDLE: Yes sir.

Mr. KELLOGG: Your packing house rates for many years have not been over 18½ cents.

Mr. BIDDLE: Are you referring to the published tariff or the rate?

Mr. KELLOGG: I am referring to the contract that Mr. Morton testified to before the Commission.

Mr. BIDDLE: You had better refer to Mr. Morton's testimony, if you are referring to testimony that has already been given.

Mr. KELLOGG: I am not asking you anything that does not apply to all of them. The rate on the Great Western was the same last winter.

Mr. BIDDLE: The rate at times on our line was 18½ cents, but I would not testify that it was the prevailing rate for years.

Mr. KELLOGG: It was prior to March, last.

Mr. BIDDLE: Not by the Atchison road, because we were out of the dressed meat and packing house product business for months at a time.

2283 Mr. KELLOGG: I am referring to testimony before the Commission:

Mr. BIDDLE: I understand that you are trying to make a point, that the rate on packing house products and dressed meat has been, or was for a period, lower than on live stock. I say that has not always been so, even when 18½ cents was the rate on the other roads.

Mr. KELLOGG: When it was not less it has been the same, has it not?

Mr. BIDDLE: Yes.

Mr. KELLOGG: Well, did that represent your views?

Mr. BIDDLE: No, sir; never has.

Mr. KELLOGG: Never has?

Mr. BIDDLE: No, sir; never has.

Mr. KELLOGG: No more than the present rates of 12½ and 18½ represent your views?

Mr. BIDDLE: No; my belief has always been, as I said, that the product ought to carry a higher rate.

Mr. KELLOGG: That is the general principle that you believe in—that the raw material should have a lower rate?

Mr. BIDDLE: It is the particular principle as applied to dressed meat and packing house products as compared with live stock.

Mr. KELLOGG: It is not a principle that *that* railroads apply to grain and the product of grain?

2284 Mr. BIDDLE: No, sir.

Mr. KELLOGG: That is a very large item of the country's traffic, is it not?

Mr. BIDDLE: Yes, sir.

Mr. KELLOGG: Now is it not an advantage to the producer of live stock to have as many good markets as he can as near his farm as he can?

Mr. BIDDLE: I think so.

Mr. KELLOGG: So the markets on the Missouri River are not only a great benefit to the producer but to the railroads and the people generally?

Mr. BIDDLE: I think so; yes.

Mr. KELLOGG: Where does the most of the live stock on the Santa Fe road originate?

Mr. BIDDLE: It is so scattered that it would be hard to tell.

Mr. KELLOGG: Well, east or west of the Missouri River?

Mr. BIDDLE: West of the Missouri River.

Mr. KELLOGG: East of the river a very small percentage?

Mr. BIDDLE: Yes, sir.

Mr. KELLOGG: If you hauled that live stock into Kansas City and it was sold in that market and manufactured, you might or might not get the product out? Isn't that true?

Mr. BIDDLE: We may not. We know that.

Mr. KELLOGG: But if you haul it through to Chicago you

2285 do get it? Is not that true? Instead of letting it stop there—you are sure of getting it clear through.

Mr. BIDDLE: Of course, if we haul it through we get it through.

Mr. KELLOGG: It is to your interest to haul all the stock from Texas and Kansas and the district west straight through to Chicago.

Mr. BIDDLE: I do not know whether that would be true under all circumstances or not.

Mr. KELLOGG: That is a plain proposition—that it is to your interest to get all of that live stock you can and haul it clear through to Chicago.

Mr. BIDDLE: We might get the packing house products.

Mr. KELLOGG: But if it stops there, there are a great many roads that may get it.

Mr. BIDDLE: Of course, if it were true that we could not haul the products out from the Missouri River to Chicago, it would be to our interest to haul the live stock through to Chicago.

Mr. KELLOGG: I thought you did not get it.

Mr. BIDDLE: We happen to be getting some of it now.

Mr. KELLOGG: Now, Mr. Biddle, how many cars of stock does the Santa Fe Road haul from west of the Missouri River, either to Kansas City or Chicago—you can give me an approximation—in a year?

Mr. BIDDLE: It is a very small number of cars.

2286 Mr. KELLOGG: You don't understand me. How much stock do you haul on your line to all markets, either to Kansas City or Chicago?

Mr. BIDDLE: We move from 80 thousand to 90 thousand cars of stock a year.

Mr. KELLOGG: And that practically all originates in Texas, Kansas and points west of the Missouri River?

Mr. BIDDLE: A large percentage of it originates west of the Missouri River. I do not know how much there is of it from Illinois and Missouri.

Mr. KELLOGG: It is a small percentage of the total?

Mr. BIDDLE: Yes, sir.

Mr. KELLOGG: It is manifestly to your interest to haul that stock directly to Chicago, is it not?

Mr. BIDDLE: Well, it is to our interest to haul it to Chicago if we can get a reasonable rate for the transportation of it.

Mr. KELLOGG: It is more to your interest to haul it to Chicago than it is to haul it to Kansas City and then take your chances on getting the product out?

Mr. BIDDLE: I will say this as to what our interests are, that there never has been any adjustment of live stock rates made by the Atchison road that was intended to discriminate either against Kansas City or the St. Joe market and in favor of Chicago.

2287 Mr. KELLOGG: There has been as to grain? Don't you remember of the Santa Fe making a rate from Topeka to Chicago of only one cent more than the rate to Kansas City and this 12 cent rate was put in to get even with the Great Western.

Mr. BIDDLE: Not the slightest; neither with the Great Western nor with the packers.

Mr. KELLOGG: Why was the grain rate made one cent more from Topeka to Chicago than to Kansas City?

Mr. BIDDLE: When was that made?

Mr. KELLOGG: During 1896. During the whole season.

Mr. BIDDLE: One cent more into Chicago than to Kansas City?

Mr. KELLOGG: From Topeka, and many other stations the same.

Mr. BIDDLE: I do not remember of any such adjustment of rates.

Mr. KELLOGG: I have a very distinct recollection of it. That was for the purpose of hauling the grain through to Chicago, was it not?

Mr. BIDDLE: I would have to look that up and see if the rate was made. I don't know that it was.

Mr. KELLOGG: Assuming that those rates were made from all points west of the Missouri River to Chicago from one to two and three cents more than to Kansas City, what was the object of making that rate?

2288 Mr. BIDDLE: Not know- what the rate was, I cannot tell you what was the object.

Mr. KELLOGG: You do not remember of any injunction having been brought against the Santa Fe road to prevent them from doing it?

Mr. BIDDLE: I have some recollection, but I do not remember the circumstances.

Commissioner PROUTY: Was that about the time that the Iowa Development Company operated?

Mr. KELLOGG: Yes, sir. They undertook to run the Great Western out of business and the Iowa Development Company undertook to get some of the business and it did.

Mr. BIDDLE: We can all testify to that.

Mr. KELLOGG: Now the speed, you say of the live stock trains and the fresh meat trains are comparatively the same.

Mr. BIDDLE: I say if anything it is in the nature of faster service on dressed meat than on live stock from the Missouri River to Chicago.

Mr. KELLOGG: Packing house products outside of dressed meat does not have to be hauled at as great speed.

Mr. BIDDLE: No, sir, it is not hauled, generally speaking, as fast as live stock.

Mr. KELLOGG: And it is hauled in box cars, a good deal of it?

Mr. BIDDLE: It is hauled in so-called refrigerator cars
2289 all hauled in equipment belonging to the packers.

Mr. KELLOGG: Some of the products is hauled in box cars.

Mr. BIDDLE: Yes, sir, some of it.

Mr. KELLOGG: Fresh meat trains do not have to be hauled at any great speed, do they?

Mr. BIDDLE: It has all to be expedited. You cannot treat it as ordinary dead freight. It has to have special service.

2290 Mr. KELLOGG: Did you mean to say that refrigerator cars take three tons of ice between Kansas City and Chicago?

Mr. BIDDLE: I mean to testify that there was about that amount of ice in the car when it left the point of origin. That is more or less of a guess for me, because I have not had occasion to look into it for sometime.

Mr. KELLOGG: It hauls from two to three thousand pounds at all times?

Mr. BIDDLE: I thought there was that much put into the car at the point of origin.

Mr. KELLOGG: Your stock cars haul a great deal of material, do they not? You sand them in the winter, don't you?

Mr. BIDDLE: Yes, sir, we put in some sort of bedding.

Mr. KELLOGG: You put in some sort of bedding?

Mr. BIDDLE: Yes, sir.

Mr. KELLOGG: And it weighs a great deal?

Mr. BIDDLE: From one to two thousand pounds.

Mr. KELLOGG: As much as the ice?

Mr. BIDDLE: Not as much as the ice required at certain seasons of the year.

Mr. KELLOGG: The risks are greater, in hauling live stock than packing house products, are they not?

2291 Mr. BIDDLE: There are some elements of risk, I suppose, that are greater in transporting the live animal than the product, but so far as the actual claim that we are called upon to pay for live stock transported between the Missouri River and Chicago, barring a wreck, which may occur occasionally, there is no great disparity in favor of the product.

Commissioner PROUTY: Is your 12 cent rate a flat rate?

Mr. BIDDLE: Yes, sir, it applies not only from the Missouri River, either originating there or coming from west of there, but from all points intermediate between there and Chicago on our line as a maximum.

Commissioner PROUTY: Does the live stock shipper in Texas ship up to Kansas City and try the markets there, and if not satisfactory send it along on that 12 cent rate?

Mr. BIDDLE: No, sir, because our rates have all been re-adjusted in line with the Missouri River to Chicago. I say because our through rates from the territory where the live stock originates have been re-adjusted so that it cannot be done.

The CHAIRMAN: In point of fact, do you bring in any amount of live stock from Kansas City that you do not take in there, that goes there by other lines?

Mr. BIDDLE: There is no way of telling, Mr. Chairman,
2292 whether the live stock we bring from the Missouri River to Chicago comes in our line or some other, but I will say this, that the Atchison road for a period of twenty years has contributed anywhere from 25 to 35 per cent of the live stock business that has gone into the Missouri River from the West.

Mr. CHAIRMAN: To put the question another way. Does live stock originate at Kansas City?

Mr. BIDDLE: Well, it originates there in this way; that all stock that is shipped into Kansas City is free and anybody can take it out. It is billed out as a Kansas City shipment.

The CHAIRMAN: So, I inquire, if, in point of fact, you bring stock out of Kansas City to any considerable extent which you do not carry in there?

Mr. BIDDLE: Oh, no.

The CHAIRMAN: Why did your road, after maintaining for so

many years a 23½ cent rate on live stock from the Missouri River to Chicago reduce that rate to 12 cents?

Mr. BIDDLE: Well, as I say, Mr. Chairman, the same rate on live stock and its products has never represented what we considered a fair adjustment. We have acceded to that condition the same as other lines have, because we could not change it without making a reduction in the live stock rates. When this reduced rate was forced upon us we thought it a good idea, perhaps, to demonstrate as to whether there should be a difference between live stock
2293 and its product, and we took that opportunity to do it.

The CHAIRMAN: Did that reduction from Kansas City have the effect of reducing the through rate from points of origin to Chicago about 11½ cents?

Mr. BIDDLE: Not so much as that, because the proportion that was earned east of the river on live stock coming from west of there had not been equal to the local rate from the river. I suppose that reduced our earnings on live stock originating west of the river perhaps five or six cents per hundred pounds. I think the proportion of the rate has been 16 or 17 cents where the local was 23½ cents.

The CHAIRMAN: Since you originate very little live stock on your line east of Kansas City, the 12 cent rate is in the nature of a proportion of the through rate?

Mr. BIDDLE: No, it is not in the nature of a proportion of the through rate, because it applies on——

The CHAIRMAN: But you do not get much from Kansas City except what you carry there.

Mr. BIDDLE: It is not much in comparison with the total movement of live stock that we handle, but it is considerable.

The CHAIRMAN: As to most of this live stock that you carry, you get only your proportion of the through rate which you say is only about 16 or 17 cents.

2294 Mr. BIDDLE: Yes sir, 16 or 17 cents over that we would earn into Kansas City.

The CHAIRMAN: So the actual reduction from the revenue point of view was not from 23½ cents to 12 cents, but from 16 or 17 to 12.

Mr. BIDDLE: It would be on live stock originating this side of the Missouri River.

Mr. KELLOGG: How much do you haul this side of Kansas City into Chicago? How many car loads a year?

Mr. BIDDLE: Well, I could not tell you. I have had no occasion to look it up.

Mr. KELLOGG: Practically that 12 cent rate only affects stock originating in Illinois and Missouri and this side of Kansas City? That don't apply to shipments from the west into Kansas City, does it? I mean through Kansas City to Chicago.

Mr. BIDDLE: Certainly it does; on our live stock from all Kansas points because of reductions from the Missouri River to Chicago. Our tariffs on file show it. I just said it reduced those rates probably five or six cents a hundred pounds.

Commissioner FIFER: When you reduce your rate to Chicago did you increase your rates from the place of origin to Kansas City?

Mr. BIDDLE: No sir.

2295 Mr. KELLOGG: Did you reduce it?

Mr. BIDDLE: No sir.

Mr. KELLOGG: So that the local rate from all interior points into Kansas City is the same as before?

Mr. BIDDLE: Just exactly.

Mr. KELLOGG: Does that 12 cent rate apply to anything except that which originates this side of Kansas City?

Mr. BIDDLE: It applies to anything shipped into Kansas City and reshipped from there, and anything shipped from Kansas City unless the rate has been less than 12 cents.

Mr. KELLOGG: That is all.

The CHAIRMAN: Unless there is some further question to be asked of Mr. Biddle, he will be excused.

There being no further questions Mr. Biddle was excused.

The CHAIRMAN: We will take a recess until 2 o'clock.

2296 B. S. CUSEY, having been duly sworn as a witness on behalf of the complainant in rebuttal, resumed the stand for further direct examination by Mr. Cowan, and testified as follows:

Q. You were asked several questions the other day, which, by your answers, you either indicated or said that you could not answer except by taking the time to make up certain statements relative to those inquiries which were made of you. Have you since that time prepared those statements and are you now prepared to present the statements, figures and data relative to the inquiries which were then made and which you took the time or requested the time to make up?

A. I have in the time at my disposal, collected as much of the data called for by the questions asked at the last hearing, as I have been able to get.

I desire, however, to state that all of the data collected has been taken from the private books, papers, writings and documents belonging to Swarzschild & Sulzberger Company, a corporation, and that I have had access to such private books, papers, writings and documents only in my capacity as the agent of said corporation and its officers. I have not since last testifying had any opportunity to confer with any of the officers of said corporation and have not been authorized by them or either of them to disclose any of the

2297 contents of their books, papers or documents or any information gathered from them, and I am not authorized by said corporation or its officers to make such disclosures and am unwilling to do so and can only do it in obedience to the order of the court if the court shall order me to do it.

Q. We will ask the court to direct you to disclose whatever facts you have gathered from any information you have had access to and, therefore, I will re-state my question and ask you to answer it by the statements taken from the books of Swarzschild & Sulzberger, replying to such inquiries as were made of you in respect of the matter

of the traffic in packing-house products and live stock referred to in the various questions which were asked you.

The COURT (Addressing counsel for defendants): Is there any objection on your part?

Mr. SEVERANCE: We are very desirous of having him state everything he can.

The COURT: Let's see, this comes under that Baird case, in the Supreme Court as to the right to compel him to testify, and the immunity.

Mr. COWAN: I had not considered that matter at all. I was just trying to get at the facts as bearing upon this case. It had not occurred to me as being a question of immunity.

2298 Mr. SEVERANCE: I do not understand that the witness has stated that he has been doing anything criminal or fears that the answers will incriminate him. It is merely a matter of good taste as to whether, without direct authority, he shall testify.

Mr. BOYESEN: This witness has been asked to testify to matters not within his own knowledge. He has no knowledge of all those things that have been asked of him and in order to get the information which was called for, it becomes necessary for him, in the exercise of his privilege as a trusted employé, to go to the private sources of information of his corporation which he could not otherwise do except when compelled by legal process, and where it was competent and necessary and relevant testimony which had been demanded.

Now the witness simply shows the court that he is not acting for himself, but that the books and papers and documents and writings of the corporation are in fact called for in this case. I object to it furthermore, on the ground that it does not appear to be relevant to any issue in this case, in addition to the fact that it is calling for information concerning the private documents and papers of a corporation not a party to this proceeding in any way whatever.

2299 Mr. SEVERANCE: May I ask for whom you appear?

Mr. BOYESEN: I appear for the witness, sir.

The COURT: Well, the court thinks it is relevant. I think if counsel had been here the other day, he would agree with me, and the court under all the circumstances thinks he is required to authorize the witness to testify.

The WITNESS: I will disclose the contents of the books, papers, documents and writings referred to, so far as called for by the questions which the court may direct me to answer, in obedience to the order of the court, but I claim for myself and the corporation, the Swarzschild & Sulzberger Company and its officers each and very and all immunities provided for by the Constitution of the United States, the Statutes of the United States, and the particular immunities and privileges provided for by the statutes under which this proceeding is had.

The COURT: Proceed.

Mr. COWAN: I would like to ask the witness one question before I have my other questions answered. Do you claim the right of being excused from testifying on the ground that it would incriminate you, that the testimony would incriminate you?

Mr. BOYESEN: I will ask leave to answer on behalf of the witness that we do not claim that it would necessarily have the effect of incriminating him, and he does not refuse to answer on that
2300 ground but he refuses to disclose the facts not within his own knowledge and the contents of books and papers, in exactly the same manner as if he were subpœnaed to produce the books and papers in court and therefore he claims the immunity for the party whose books and papers they are.

The COURT: The Court will not undertake to pass on that. The question of immunity will arise when it comes. That is a question that I do not believe has ever been settled, as to whether the immunity would go to the corporation or go to the witness.

Mr. BOYSEN: Judge Seaman passed on it recently.

Mr. SEVERANCE: Judge Vanderventer passed on it in Milwaukee day before yesterday, and compelled the officers to testify.

Mr. COWAN: Under the circumstances, the witness testifying without these conditions the other day with respect to all matters which, in a general way subserved the purpose of the complainant, and so far as we are concerned, in direct examination, reserving the right of cross examination, we desire to withdraw our question to the witness.

Mr. DAWES: I submit, your Honor that counsel cannot reserve the right to cross examine his own witness.

The COURT: Do you gentlemen want to ask him any questions. (Referring to counsel for defendants.)

2301 Mr. LYNDE: I would like to have that question read.

(The pending question was then read.)

Mr. LYNDE: But, Mr. Cowan did not re-state the question. He started out by asking him a question and I would like to know what that is.

(The first question propounded to the witness at this hearing was then read.)

Mr. COWAN: Counsel for the complainant declines to ask any further questions on direct examination reserving the right to cross examine.

The COURT: Now that is withdrawn (referring to the first question propounded by Mr. Cowan.) Do you want to ask him anything?

Mr. SEVERANCE: We do.

Mr. LYNDE:

Q. Mr. Cusey, have you prepared such statements as are referred to in the questions just read to you.

A. I have.

Q. Have you them with you?

A. I have.

Q. Well, will you kindly allow counsel to see them.

Mr. BOYESEN: It is understood then that the explanation of the witness applies, gentlemen, to each and every one of your questions the same as in answer to the questions of Judge Cowan.

Mr. LYNDE: Yes.

2302 Mr. BOYESEN: Just so that will be understood.

The COURT: You claim the immunity for the corporation?

Mr. BOYESEN: Yes sir.

The COURT: You don't claim it because it will incriminate anybody but you claim that the rights of the corporation should be protected if he testifies.

Mr. BOYESEN: Yes sir.

The COURT: That will be preserved when the time comes.

Mr. SEVERANCE:

Q. Have you a list of the questions that were asked of you, that you were to look up?

A. No, I have not from the testimony given.

Mr. LYNDE:

Q. What do your statements cover?

A. The statement first asked for was a statement of the total shipments from Kansas City, of live stock.

Q. A little louder.

A. A statement of the total shipments from Kansas City, of live stock, which I have prepared for the years 1901 to 1904 inclusive.

The COURT: I did not understand what it is.

A. Shipments of live stock from Kansas City—No, this is live stock slaughtered at Kansas City in the years 1901 to 1904 inclusive.

Mr. SEVERANCE:

Q. That, is, slaughtered by Swarzschild & Sulzberger at

2303 Kansas City for those years.

A. Yes sir.

(Witness reads statement as follows:)

	Cattle.	Calves.	Sheep.	Hogs.
1901	289,368	6,640	186,265	354,615
1902	157,914	9,783	122,874	227,687
1903	158,761	5,621	153,190	245,486
1904	188,328	3,606	141,232	308,219

(The said statement is marked "Exhibit A" and is attached hereto.)

Q. What is the next statement?

A. A statement of cattle, calves, sheep and hogs received and killed by our company at Chicago for the same period.

(The witness then read said statement as follows:)

Cattle.

1901	16047
1902	180381
1903	256880
1904	227490

Calves.

1901	5
1902	22083
1903	17679
1904	13561

Sheep.

1901	10211
1902	362885
1903	340729
1904	254279

2304 Hogs.

1901	2723
1902	312625
1903	352139
1904	401813

(The above statement on cattle from 1901——

The COURT: What?

A. The above statement on cattle from 1901 is for the months of November and December, at which time we commenced operation of the new plant. Sheep were killed at about the same time, but hogs were not killed until the 26th day of December, there practically being three days' killing in that year. In reference to 1904 figures shown, you will note they are somewhat less than 1903. This is from the fact that we had a strike during the months of July, August and part of September and our killing was considerably reduced.

(The said statement is marked "Exhibit B" and is attached hereto.)

Mr. SEVERANCE:

Q. What is the next statement you have?

A. The next is a statement of cattle, calves, sheep and hogs killed at our plant at New York for the years 1901 to 1904, inclusive.

Q. Read that.

The COURT: What is the use of reading that? Let him put
2305 it in the record. What you asked him about was as to the amount of the damage.

Mr. SEVERANCE:

Q. This stock which goes to New York, does it come through Chicago from the west?

A. Not all of it.

Q. Where does the rest of it originate?

A. It comes largely from Chicago, a part from the west, but largely from Chicago.

Q. Well, it came to Chicago from the west?

A. Oh, yes, west and south.

Mr. SEVERANCE: We ought in some way to be able to show just what they are.

The COURT: Go ahead if you want to.

Mr. SEVERANCE:

Q. Have you a separate statement of the amount of live stock that you buy on the exchange here in Chicago which includes all that you slaughter here and all that you ship to New York?

A. No, I have not a separate statement but the statement just presented showing the amount killed at Chicago, together with this statement will show the total amount purchased here at Chicago.

Q. Then I understand you that you did not ship in yourself to Chicago any of this stock that was killed here or killed at New York, is that so?

A. No, that is not exactly correct. We did some, but a
2306 very slight amount.

Q. Have you a statement of that?

A. Yes, I have a statement that will cover that, I think, in a general way, quite conclusively.

Q. Well, the qestion would be the putting in of those figures then?

A. I will get to that statement later on.

Q. How long is it?

A. It is the same as those other two.

(The witness then read the statement referred to as follows:)

New York.

Cattle.

1901	137771
1902	124479
1903	136449
1904	115097

Calves.

1901	45732
1902	26932
1903	25429
1904	22120

Sheep.

1901	223155
1902	175194
1903	176376
1904	157084

(The following cattle were exported from New York.

2307

1901	39459
1902	37862
1903	48998
1904	55276

Mr. SEVERANCE:

(The statement so produced is marked "Exhibit C" and is attached hereto.)

Mr. SEVERANCE:

Q. Where were those export cattle purchased?
A. Principally on the Chicago market.
Q. Some of them on the Kansas City market?
A. Some, but a very few.
Q. What is the next statement you have?
A. The next statement is a statement of the dressing of a thousand pound steer, which dressing is as follows:

Dressing of a Thousand Pound Steer.

Meat.....	56%	or 560 lbs.	
Fats.....	10%	" 100 "	
Hide.....	7%	" 70 "	
Offal.....	3½	" 35 "	(This includes livers, hearts, tails, tripe and tongues)
Casings.....	2%	20 "	
Blood.....	3%	30 "	
Bones.....	3%	30 "	
Hoofs.....			
Horns.....			
Heads.....			
Waste.....	15½%	155 "	
Total.....		1000 lbs.	

2308 Q. That is a steer dresses out in one sort of product or another all except 155 pounds?
A. Of waste.
Q. Well, by waste you mean what it commonly means, a loss of 155 pounds in the steer?
A. Yes sir.
Q. So you save 845 pounds in one shape or another of the 1,000 pounds?
A. Yes sir.
Q. That statement was prepared at the request of Judge Cowan, was it not?
A. Yes, I think so. He also requested a statement showing the dressing of the same weight of hogs. I have taken 5 200 pound hogs which dress as follows:

(The witness then read the statement in the words and figures following.)

Dressing of Five 200-pound Hogs.

Meat.....	70%	700 lbs.	
Fats.....	7%	70 "	
Hair.....	1½%	15 "	
Offal.....	6%	50 "	(This includes snouts, cheek meat, brains, kidneys, ears, tongues, plucks and milts.)
Casings.....	4%	40 "	
Blood.....	2%	20 "	
Bones.....	1 7/10%	17 "	
Waste.....	7 7/10%	78 "	
Total.....		1000 lbs.	

(The said statement produced by the witness is marked "Exhibit D" and is attached hereto.)

Q. So that out of 5 hogs weighing 200 pounds each you get 92.2% of product of one sort or another?

A. Yes sir.

2309 The COURT: There is not as much waste in a hog as there is in a steer then?

Mr. SEVERANCE: Nowhere near.

Q. These statements which you are reading now have been prepared at the request of Judge Cowan, our request simply being for a statement concerning the loss and damage, and I will ask you if you have shown them to him?

A. I simply showed them to Mr. Cowan as I ran across him in the room.

Q. Mr. Tomlinson looked them over, didn't he?

The COURT: Why not just put them in and have them attached to the record?

Mr. SEVERANCE: I just want the record to show that they asked for them and then did not use them.

Q. Mr. Tomlinson saw them, didn't he?

A. Yes sir.

Q. What is the next statement?

A. Live stock shipments from the Missouri river to Chicago and the Missouri river to New York, for the years 1902, 1903 and 1904.

Q. Just read that into the record.

A. (Reading statement referred to.)

2310 *Live Stock Shipments.*

Cars from Missouri river to Chicago 1902.....	129	
" " " " " New York 1902.....	301	
		430
Cars from Missouri river to Chicago 1903.....	428	
" " " " " New York 1903.....	480	
		908
Cars from Missouri river to Chicago 1904.....	737	
" " " " " New York 1904.....	414	
		1151
		2489

I have also appended as requested a statement showing the amount of claims collected on shipments of live stock over the western lines during the same period.

(The said statement produced by the witness showing live stock shipments is marked "Exhibit E" and attached hereto.)

Q. That is, this covers all the lines west of the Indiana and Illinois State line?

A. Yes sir.

Q. Well, read that, will you? Have you got it so you can tell which road you collected from?

A. Yes sir. Chicago & Alton total $2,380.40.

Q. Do you give the number of cars you shipped by each line upon which this collection was made?

A. Yes sir.

Q. All right, read it in. Is this the total for the four years, or each year by itself?

A. This is the total for the three years.

Q. What years are they, 1902, 1903 and 1904?

A. Yes sir.

2311 Q. You haven't them separated by years?

A. Yes sir, they are separated.

The COURT: Let him read what he has.

The WITNESS: They are not totalled, however. Claim #10073, loss and damage due to delay in transfer, $90.48 on two cars shipped July 29th, 1902.

Claim #10210, loss and damage for the same cause amounting to $526.08 on 12 cars shipped January 6th, 1903.

Claim #10,134 loss and damage due to improper loading at point of origin, $685.17 on 6 cars shipped September 11th, 1902.

Claim #10,644, Loss and damage due to delay, $108.06 on 6 cars shipped June 23rd, 1903.

Claim #10,801, on one steer trampled, $35.82, one car shipped April 2nd, 1903.

Claim #10,261, loss and damage due to delay $48.96 on two cars shipped February 17th, 1903.

Claim #10,541, loss and damage due to delay, $885.83 loss on 14 cars shipped February 17th, 1903.

The COURT: Is that all the Alton Road?

A. All on the Alton Road.

Mr. SEVERANCE:

Q. How many cars did that make altogether over the Alton?

2312 The COURT: He has not got through yet.

The WITNESS: Yes, that is all with the Alton. It makes 43 cars.

Mr. SEVERANCE:

Q. What is the total claim collected?

A. $2380.40.

Q. 40 cars, did you say?
A. 43.
Q. It is about 50 cents a car in round numbers?
A. Yes, in round numbers.
Q. Well, go on.

The COURT:

Q. Were there any other claims pending that were not settled?
A. I am unable to state that from memory.
Mr. BOYESEN: What is that?
A. I am not able to state from memory.

The COURT:

Q. What books did you get those entries from?
A. Those are from the records in our book-keeping department, our auditing department.
Q. Did you have any correspondence with representatives of the Alton Road, on that subject?
A. Of those particular claims?
Q. On any claims for damage?
A. Yes sir.
Q. Have you that correspondence?
A. I can probably locate it in my files.
2313 Q. Wouldn't that show other claims existing besides these that you have put on the books?
A. Well, all claims are entered on the books, charged on the books.

Mr. SEVERANCE:

Q. Then as I understand you, Mr. Cusey, these claims are all the claims that you made and collected?
A. That have been collected during this period.
Q. Against the Chicago & Alton railroad for the three years in question, 1902, 1903 and 1904?
A. Yes sir.
Q. On the 43 cars of live stock shipped over that line?
A. Yes sir.
Q. Or in the shipment of which that line participated?
A. Yes. We may have shipped 400 cars over that line, and probably did.

The COURT:

Q. But these are the only ones on which any damage was paid?
A. These are the only ones on which damage was paid.

Mr. SEVERANCE:

Q. Do you know how many cars you shipped over that line?
A. I do not now, I would have to check that up.
Q. You gave the total shipments you made?
A. That is the various lines, yes sir.
2314 Q. How much did that aggregate?
A. That figures, the total, 2489 cars. I might say here

that I have shown that the total claims collected on live stock shipments during the three years amounts to $2649 or an average of $1.06 per car.

Q. That is what I wanted to get at, because you testified the other day that it was about 50 cents a car.

A. I think I said $1.00 a car. That was my estimate.

Mr. LYNDE: I think that is right.

Mr. SEVERANCE:

Q. Those claims as I understood when you read them, were nearly all for delays?

A. Yes, sir.

Q. That is in failing to reach destination at the time agreed on?

A. Not for a particular market, no sir. It is for damages accruing on account of delays and because the stock were not properly cared for, that is not properly fed or sheltered, causing a large shrinkage in the beef.

Q. Were there not a few for delays in reaching the market? Still I suppose your shipments would not be to get to a market?

A. No, sir.

Q. They are bought for your own consumption?

A. Yes they are bought for our own consumption.

Q. So you would not have that kind of claims?

A. No, sir. Here are two claims against the Rock Island, No. 10864 for loss and damage due to delay, $134.50 on 6 cars
2315 shipped April 29th, 1904.

Q. That is for live stock?

A. Yes. Claim # 10208, damage due to the same cause, $135.3 on two cars shipped February 17th, 1903.

Q. Then so that will be clear in the record, these claims on these 2400 cars of cattle in the three years were all cattle bought by your firm for slaughtering in Chicago or New York and for export?

A. Yes, sir.

Q. So that they were not bought and sold again?

A. No, sir.

Q. So that it was not essential to reach any market at any special time?

A. No, sir.

Q. And therefore these claims are claims for damage to the stuff in transit?

A. Yes, sir.

2316 Mr. SEVERANCE:

Q. What is your next statement?

A. The next statement is a statement showing our total fresh meat and provision shipments from Kansas City via the Missouri Pacific, the Wabash, the C. & A., the Burlington, the Santa Fe, the Rock-Island, the St. Paul and the Great-Western.

Q. During what period?

A. For 1902 showing a total of 3985 cars.

Q. In the year 1902?

A. Yes, sir.

Q. And on the statement have you separated it by roads?

A. By roads, no, sir.

Q. Well, go ahead, what is the next thing?

A. For 1903, the number of cars shipped is 4483; for 1904 the number of cars is 5661, the total for the three years is 14,129.

Q. Now, does that include both dressed meats and packing house products?

A. Yes, sir.

Q. Go ahead.

A. The next is a statement of loss and damage claims accruing on account of wrecks and delays in transit, also inattention in the way of icing on shipments from Kansas City via the various lines named before during the same period, 1902 to 1904 inclusive, which have been collected. The C. R. I. & P. is $1334.04.

Q. On how many cars, or isn't it given in that way?

A. No.

2317 Q. Right there, before you read those figures, you read the head lines: "Damages" you say, "caused by wrecks, delays, and so forth." Do you assert any claims for delays on shipments of packing house products, or dressed meats, unless the delay has caused some injury to the contents of the car?

A. No, sir, we make no claims on account of dressed beef or provisions missing any particular market, although we have a great deal of loss on that account, but we do not file any such claims.

Q. The railroads don't pay any such claims as that to you anyway?

A. No, sir, they don't recognize them.

Q. Well, go ahead. Well, in these cases the heading was, "Damage by wrecks, delays, and so forth," I think, general in its terms?

A. Yes, sir, various causes.

Q. Various causes. Now, these claims that you index under the head, "Claims on account of delays," as I understand you then, are claims for damages that accrued to the contents of the car, that is the meat spoiling, or something of that kind?

A. Yes, sir.

Q. By reason of the trains being delayed so that they run out of ice, or something of that sort?

A. Yes, sir, not properly iced, causing the beef to become soft on account of the temperature rising. Other times the beef

2318 becomes stale, and other seasons of the year the beef becomes black so that when the beef is shown in the market there is no demand for it.

Q. And that is caused when, for some reason or other, the train is late, laid out on the road somewhere where they cannot get ice?

A. Yes, sir, or in some cases they pass icing stations without being iced.

Q. Through the negligence of the Company in some way?

A. Yes, sir.

The COURT: What was the first amount; I didn't understand it.

A. The first was claims collected from the Rock Island Road, $1334.04.

Q. That is in three years?

A. Three years, yes, sir.

Q. Go ahead.

A. The Wabash, $1,318.65.

Mr. SEVERANCE:

Q. In all the cases you are giving the aggregate of the three years, are you?

A. Yes, sir.

Q. Go ahead.

A. C. N. & St. P., $540.14. The C. & A. $20,597.75. In this statement there is one claim on 16 cars of dressed beef which was wrecked in transit that amounted to $11,907.80, almost totally destroyed.

Q. What was the date of that?

A. That was August 19, 1902.

Q. Go ahead, that is on the Alton Road?

2319 A. Yes, sir. The Chicago Great Western, $1,971.88; the Santa Fe, $1,290.64; total, $27,047.09.

Mr. DAWES: Did you get the C. B. & Q.

Mr. JEFFERY: Or the Missouri Pacific?

A. There are no C. B. & Q. or Missouri Pacific in this statement. I was going to say that when I appeared before, I made an estimate of what these losses would be from my own books and also from advices received monthly from my Kansas City office of claims collected there. These advices did not show the car numbers, nor dates shipped, but simply the amounts, and my office so far has not forwarded to me that data which I have requested, so that I am unable to give the details covering about $7,000 of claims collected by the Kansas City office for the same period of three years.

Mr. SEVERANCE: That is, you are not able to state what the claims were for?

A. They are all for the same purposes, but I cannot tell what cars the damage occurred to.

The COURT: Damages of $7,000 more in addition to this $20,000 on the Alton?

A. No; against all the roads.

Mr. SEVERANCE:

Q. Well, Mr. Cusey, have you here a statement showing
2320 the causes of the claims, that is to say, distributions between wrecks and other damages?

A. Yes, sir, I have a statement showing each claim number and each car number and the date that the car was shipped, and the amount of the claim against each car.

Q. Have you totaled those in any way?

A. Yes, sir.

Q. What is the total from wrecks out of this lot you have read?

A. I have not separated them, they are not segregated *them*.

Q. That is what I am asking for.
The COURT: Where did you get this statement from?
A. They are from our books.

Mr. SEVERANCE:

Q. What is that total collection from all roads?
A. From all roads for the three years, and to be added to that is the $7,000 on which I have not the details.
The COURT: How much does that make your total then, for three years?
A. $34,047.09.
Q. How much for live stock?
A. $26,049.93.

Mr. SEVERANCE:

Q. I understood that was on 2400 cars; this is on how many thousand, how many thousand cars did you ship?
A. This is on 14,129 cars. It averages $2.41 per car.
Q. Well, now, in addition to this one large wreck on the
2321 Alton, where you say you had a number of cars destroyed, making the claim some eleven thousand dollars?
A. Yes, sir.
Q. Were there any other wrecks of considerable size included in this list?
A. Yes, sir, we had a number.
Q. Can you refer to them there?
A. No, sir, I cannot.
Q. Were there wrecks on other lines aside from the Alton?
A. I cannot recall from memory just now.
Q. Well, have you access to the data which would show that?
A. I am not positive. A great deal of our records at Kansas City were destroyed by the flood two years ago.
Q. Didn't I understand you to say a moment ago, Mr. Cusey, that on this statement you did have a list of claims paid on account of wrecks as distinguished from other causes?
A. Yes, sir, I have that right here but they are not segregated.
Q. I understand, but by turning to this list then, you can show those that come from wrecks, can't you?
A. Yes, sir. Those are all the statements I believe, that I have been asked to prepare.
Q. You have filed there that list, that better be identified in some way, you didn't read it, the long list here.

The COURT: Let that be marked as a proper exhibit to his testimony.
2322 Mr. SEVERANCE: The one he did not read I was going to mark.
The COURT: Let me see the one he did not read.
Mr. SEVERANCE: It is the itemized list of claims that were paid.

The WITNESS: Here are the totals of the same things (referring to other statements heretofore testified about.)

The COURT: Now, does that state the truth there, or is that simply your claim, in order to get money out of the railroad company?

A. No, sir, that is *bona fide* loss and damage in every case, actual loss and damage.

(The document produced by the witness and just referred to by Mr. Severance, and shown to the Court, was marked "Cusey, No. 1," and filed as a part of the evidence in this case.)

The COURT: Will you produce the correspondence between you and the Alton Road?

A. I can, part of it, yes, sir.

The COURT: Will you produce it here to-morrow morning if the Court is in session.

A. Yes, sir.

2323 Examination by Mr. DAWES:

Q. Mr. Cusey, you made no statement of claims presented against the Burlington road there on account of damage to the dressed product?

A. No sir, no statement of claims collected.

Q. Or presented either?

A. No sir.

Q. I have here a statement showing the amount of claims made by the firm of Schwartzschild & Sulzberger on account of damages to dressed beef and packing house products from the 1st of January, 1903, to the 1st of October, 1905, on products shipped from Missouri River points to Chicago?

A. Yes sir.

Q. Which shows the amount claimed by Schwartzschild & Sulzberger to be $2969.41, have you any reason to doubt the substantial accuracy of that statement?

A. No. I have no manner of knowing whether it would be that or twice that sum.

Q. Which were all declined except $145 and some odd cents, being the total amount you have collected in three years, nearly three years, from the Chicago, Burlington & Quincy Railroad Company on account of the damages of which you are talking?

A. Yes sir.

Q. Have you any reason to doubt the accuracy of that?

A. No, I have not.

2324 Q. Our records show that during that period you shipped 1359 cars of the dressed product, which would make an average of claims paid to you during that whole period of less than 10 cents a car. Do you doubt the accuracy of that conclusion? Here is a statement, if you will glance your eye over it, a claim you will see, No. 2 for $492.83, which is marked there as "paid," which should, as I am informed, go out because it was business west to Denver. Perhaps you may recollect the particular claim.

A. I have not included any such business.

Q. No, so that that was put in there to show all of the claims paid but should not be in because it is not pertinent to this inquiry;

deduct that and I think you will find what I said to be correct, and I will ask you if that coincides with your information?

A. I cannot testify positively until I have received this information from the Kansas City office giving the detail, of course.

Q. Will you be good enough to check that over?

A. Yes, sir.

Q. In the event you do not get that, are you able to give a judgment sufficiently accurate for present purposes to say whether you believe that to be a substantially accurate statement or not?

A. I can say to-morrow.

Q. Very well Mr. Cusey, remembering the explanation I
2325 make about that being a paid claim, $492, to go west of Denver, and not proper to be introduced here.

A. Yes, sir.

Examination by Mr. SEVERANCE:

Q. Now Mr. Cusey, could you, without any great difficulty, give us information as to the number of cars of stock that you shipped, I mean, of packing house products, strike out stock—packing house products and dressed meat that you shipped by the various lines, separately?

A. I could but that would entail a great deal of labor to get that up.

Q. You shipped a greater part of your product over the Alton, didn't you?

A. Yes sir.

Q. The shipments by the other roads were comparatively small?

A. Yes sir, except the Great Western.

The COURT: The road you patronized depends on the amount of claims they paid you?

A. No sir.

Q. The Alton paid you the most, didn't it?

A. No sir.

Q. They paid the most claims, that is true, isn't it?

A. Yes sir, they have paid those claims. I would like to state here that some three years ago when I took charge of the
2326 Traffic Department that I was instructed by our Company to work as close with the Alton as possible, because of the fact that some of our officials are very close friends of the officials of the Chicago & Alton Railroad, or rather the owners of the Chicago & Alton Railroad. That is one reason why traffic has remained on their rails; also to the fact that they have been giving very good service during that period except at times.

Mr. SEVERANCE:

Q. Mr. Cusey I notice in your list of claims paid by the Chicago Great Western Road that there were paid you $107.08 on the 2nd day of March, 1904, and $79.60 on the 30th day of January, 1904.

A. Those are the dates the cars moved.

Q. Making a total of about $186.68; and in my statement from the Great Western books, the payments in 1904 appear as $110.86.

That makes a difference of a few dollars, $70 or $80, something like that.

A. I think that is due to the fact that your figures show the date of collection and this shows the date the car was shipped; that will probably explain that difference.

Q. It is a small matter anyway. According to the statement furnished by the Great Western Railroad, on a total shipment of 1822 cars in 1904, they paid you $110.86 damages. Have you any reason to doubt the correctness of that statement?

2327 A. The tonnage is about right I know. As to the amount of the claim, that is something I could not say.

Q. You know it is very small in your statement here, you have only about $180, and part of it may have arisen as you say.

A. Yes sir.

Q. So you would not have any reason to doubt that statement of the railroad company's of $110.86 as the amount they paid you on account of 1904 shipments?

A. Yes sir, I think that is correct.

Q. You did not divert any traffic to the Great Western Road by reason of any large claims paid you, did you?

A. No sir.

Q. Now, those are all the statements you made up Mr. Cusey?

A. Yes, sir.

Q. Either in obedience to the request of counsel for the complainant, Mr. Cowan or for any of the counsel for defendants?

A. Yes sir.

Q. You have done your best have you, to comply with the requests made when you were on the stand the other day?

A. I have.

The COURT: Does any one else want to examine this witness?

Mr. LYNDE: Just a moment your Honor. I will ask one question your Honor, of the witness; and I will state to the Court that I put this question, not for the purpose of unnecessarily humili-

2328 ating the witness.

Q. Isn't it a fact Mr. Cusey, that very recently you pleaded guilty in this court to the charge of joining with others in a conspiracy to extort money from railroad companies in the shape of rebates, by presenting false and fictitious claims for damages, in substance?

Mr. BOYESEN: I desire to object to that question if the Court please, as not tending to impeach the witness in any way whatever, and it is a matter of affirmative evidence, it appears of record. The mere fact that the witness has been found guilty or pleaded guilty of having accepted a rebate would not impeach him in any way, and therefore, is not competent cross examination, or relevant to any fact to which the witness has testified.

The COURT: It is competent to show, I think by the witness himself, that he has been convicted of a crime, and that *is* this question I think, attempting to show that. The objection is overruled.

Mr. BOYESEN: I except to the ruling of the Court.

Mr. COWAN: I doubt if that is admissible at this point. I decline to ask these questions, and these gentlemen for the defense have made him their witness for that purpose, and they are not in the attitude of offering impeaching testimony of any character—they have made him their witness for the purpose of producing these statements.

2329 Mr. SEVERANCE: We have not made him our witness at all. This is cross examination.

The COURT: I have instructed the witness to answer. Answer the question.

A. It is a fact that I pled guilty to conspiring with others for the solicitation of rebates.

Mr. LYNDE: That is all I care to ask the witness.

The COURT: Is there anything else?

Mr. COWAN: Now, Mr. Cusey, explain the circumstances of it and who of these defendants were the parties who paid the rebates?

Mr. LYNDE: That is objected to your Honor.

Mr. COWAN: I say when a witness has been interrogated with respect to a matter of that sort, he has a right to explain it.

The COURT: I don't suppose the witness wants to. I will sustain the objection to your question. Of course, if the witness wants to explain anything, he has the right to do that under the instruction of his counsel. Do you want to add anything to what you said on that subject, Mr. Cusey?

The WITNESS: No, sir.

Mr. COWAN: Then I will ask him the further question, if any one of these defendants have been paying rebates on the shipments of dressed meats or packing house products?

Mr. SEVERANCE: So far as I am concerned, I have no ob-

2330 jection to that question as to my road.

Mr. DAWES: I hope he will answer it.

Mr. COWAN: Let it go.

Mr. SEVERANCE: I thought you would withdraw it when you found out we didn't object to it.

Mr. COWAN:

Q. Mr. Cusey, refer to your exhibit please, which shows the amount that the animal dresses out, which shows the amount of weights, and state what amount of each in point of weight is shipped as dressed meat or the packing house product. To explain what I mean, you stated that a thousand pound steer would dress out 560 pounds of meat. Now, then, how much weight of that would be embraced in the shipment; in other words, how much would it shrink up to the time it is shipped, loaded into the cars for shipment?

A. It would shrink from that weight between 3 and 4 per cent.

Q. And how much would that be, if you have the figures?

A. About 540 pounds.

Q. Now, then, take up each of the other items and state what the weight would be that is shipped.

The COURT: Now wait a minute Mr. Cowan; is there any dispute about that? Haven't you proved all you want about that in the record already?

Mr. COWAN: There might be some contention about it,
2331 your Honor, he has stated how much it would dress out. Now, what an animal dresses out, isn't the amount that is shipped, that is the material point.

The COURT: That will be shown by the evidence already in.

Mr. COWAN: For example, he has got 30 pounds of blood. I desire to ask the witness how much is really shipped in the form of that product.

The COURT: Suppose you do miss a drop or two of blood, or a pound or two, or five or ten, what is the use of wasting time about it?

Mr. COWAN: It makes this difference, if they ship 7½ pounds instead of 30, they miss the difference between 7½ and 30.

The COURT: It doesn't make any difference.

Mr. COWAN: Let the record show that I offer to prove by Mr. Cusey substantially the same facts in reference to the amount that is actually shipped as testified by Mr. Baker.

The COURT: All right.

Mr. COWAN:

Q. How much damage claims against the Great Western for the year 1903 and the year 1905 did you have, you stated what it was for 1904 there?

A. I gave the total for three years.

The COURT: He gave 1902, 1903 and 1904, the way I understand it.

2332 A. Yes sir, three years, that applies on all roads.

The COURT:

Q. And he hasn't any for 1905, I suppose, you haven't any records?

A. They are not included.

Mr. COWAN:

Q. Do you recall what the damage claims paid——

Mr. SEVERANCE: Pardon me just a moment, I think I was in error when I asked this question about a little discrepancy. This statement is from June 30, 1904, to June 30, 1904 that I had, and therefore it covered a period subsequent to the payment of the $180 in 1904, shown by the witness. It is in the record, I introduced it. I thought they overlapped, but I see they do not because the two claims on meat in 1904 in that statement were marked in March and January, and this statement does not begin until the 30th of June, 1904, and runs down to the 30th of June this year.

Mr. COWAN: I wanted to ask a question about this year in reference to the statement he asked him about.

Mr. SEVERANCE: Yes, that is all right.

Mr. COWAN:

Q. Is it not a fact that in the year 1905, previous to June 30th, there was presented and collected a claim against the Chicago Great Western Railroad by your company of about $1700?

A. During 1905?

Q. Yes.

A. Not that I recall.

2333 Q. The amounts of these claims do not run regular against a particular road per year, do they?

A. Oh, no, no.

Q. The total amount you have stated covers a period of three years?

A. Yes sir.

Q. Are you able to state whether or not, leaving out the wreck on the Alton of $11,000, that cost them about $11,000, that that fairly represents the average risk in the business?

Mr. DAWES: The Alton payments or what?

Mr. COWAN: The total.

The WITNESS: The records speak for themselves in that respect.

Q. Well, from your experience, what, in your experience, will be the amount of loss and damage incident to the shipment of dressed meat and packing house products in the manner in which it is done per car, continued for a period of five or six years?

Mr. SEVERANCE: If the Court please, that would be purely speculative because it comes through a matter of wrecks.

Mr. COWAN: It is speculative in a sense, but he is experienced in the business.

The COURT: The objection is sustained.

Mr. COWAN:

Q. Are any of the claims which are embraced against the Alton Road for other than legitimate damages that accrued, or

2334 rather that occurred to the contents of the cars?

A. No sir, they are actual loss and damage only.

Q. And how as to the rest of the roads?

A. It is the same, it applies to all roads.

Mr. COWAN: That is all.

Mr. SEVERANCE: That is all Mr. Cusey, as far as I am concerned.

Mr. BOYESEN: Do I understand from you gentlemen that Mr. Cusey is excused?

The COURT: If counsel do not want him.

Mr. SEVERANCE: He is excused as far as I am concerned.

Mr. DAWES: I understood he was to bring certain figures to-morrow.

The COURT: The Court asked him to bring certain letters and documents, I don't want them if counsel don't want them. If it is in the interest of anybody, it is in the interest of the railroads to show these claims are not genuine. If you don't want to undertake to show that, I do not care to.

Mr. SEVERANCE: We do not intend to pay any that are not genuine so far as our road is concerned.

Mr. JEFFERY: He testified as to the Missouri Pacific that he couldn't get any money out of them, they didn't pay any claims to him, just or unjust.

2334*a* CUSEY EXHIBIT A.

S. & S. Company—Kansas City Plant.

Live Stock Slaughtered 1901 to 1904, Inclusive.

	Cattle.	Calves.	Sheep.	Hogs.
1901.....	289,368	6,640	186,265	354,615
1902.....	157,914	9,783	122,874	227,687
1903.....	158,761	5,621	153,190	245,486
1904.....	188,328	3,606	141,232	308,219

2334*b* CUSEY EXHIBIT B.

Chicago.

Cattle, calves, sheep, hogs killed as below:

Cattle

1901.....	16047
1902.....	180381
1903.....	256880
1904.....	227490

Calves

1901.....	5
1902.....	22083
1903.....	17679
1904.....	13561

Sheep

1901.....	10211
1902.....	362885
1903.....	340729
1904.....	254279

Hogs

1901.....	2723
1902.....	312625
1903.....	352139
1904.....	401813

The above statement on cattle from 1901 is for the months of November and December, at which time we commenced operation of the new Plant.

Sheep were killed at about the same time, but Hogs were not killed until the 26th day of December, there practically being three days' killing in that year.

In reference to the 1904 figures shown, you will note they are somewhat less than 1903. This is from the fact that we had a strike during the months of July, August and part of September, and our killing was considerably reduced.

2334c CUSEY EXHIBIT C.

New York.

Cattle, calves, sheep, hogs killed as below:

Cattle

1901	137771
1902	124479
1903	136449
1904	115097

Calves

1901	45732
1902	26932
1903	25429
1904	22120

Sheep

1901	223155
1902	175194
1903	176376
1904	157084

Following cattle were exported from New York:

1901	39459
1902	37862
1903	48998
1904	55276

2334*d* CUSEY EXHIBIT D.

Dressing of a Thousand Pound Steer.

Meat	56%	or 560 lbs.	
Fats	10%	" 100 "	
Hide	7%	" 70 "	
Offal	3½%	or 35 lbs.	(This includes livers, hearts, tails, tripe & tongues.)
Casings	2%	" 20 "	
Blood	3%	" 30 "	
Bones, Hoofs, Horns, Heads	3%	" 30 "	
Waste	15½%	" 155 "	
Total		1000 lbs.	

Dressing of Five 200 Pound Hogs.

Meat	70%	700 lbs.	
Fats	7%	70	
Hair	1½%	15	
Offal	6%	60	(This includes snouts, cheek meat, brains, kidneys, ears, tongue, plucks and milts.)
Casings	4%	40	
Blood	2%	20	
Bones	1 7/15 %	17	
Waste	7 8/15 %	78	
Total		1000 lbs.	

2334*e* CUSEY EXHIBIT E.

Live Stock Shipments.

Cars from Mo. River to Chicago	1902	129	
" " Mo. River " New York	1902	301	
			430
Cars from Mo. River to Chicago	1903	428	
" " Mo. River " New York	1903	480	
			908
Cars from Mo. River to Chicago	1904	737	
" " Mo. River " New York	1904	414	
			1151
			2489

Total live stock claims collected on Chipments during above period is 2649.93.

This averages $1.06+ per car.

2334*f* Road—Chicago & Alton.—Live Stock.

Number.	Cause.	Am't paid.	Car number.	Date.
			60572	
10073	Delay	90.48	60280	7/29/02
10210	"	526.08	12 cars	1/6/03
10134	Improper load'g.....	685.17	6 cars	9/11/02
10644	Delay	108.06	6 cars	6/23/03
	1 trampled			
10801	Delay	35.82	298	4/2/03
10261	Delay	48.96	1101	2/17/03
10541	"	885.83	11326	2/17/03
		2380.40	14 cars	

Cusey Ex. —.

2334*g* Road—Rock Island.—Cattle.

Number.	Cause.	Am't paid.	Car No.	Date.
10864	Delay	134.50	6 cars	4/29/04
10208	"	135.03	2 "	2/17/03
		269.53		

Cusey Ex. —.

2334*h* 1902.

	Dr. Bf.	P. H. P.
March	250	48
April	226	32
May	221	23
June	266	36
July	353	28
August	343	18
September	323	24
October	352	57
November	310	44
December	393	51
	3037	361
	361	
	3398	
January	299	
F'b'y	288	
	3985	

Cusey Ex. —.

2334*i* 1903.

	Dr. Bf.	P. H. P.
January	326	55
February	275	72
March	300	74
April	348	55
May	396	47
June	46	4
July	251	87
August	296	80
September	339	64
October	384	78
November	379	70
December	376	81
	3716	767
	767	
	4483	

Cusey Ex. —.

2334*j* 1904.

	Dr. Bf.	P. H. P.
January	330	54
February	408	55
March	393	82
April	366	74
May	490	58
June	442	67
July	179	47
August	361	86
September	428	81
October	454	111
November	437	110
December	455	93
	4743	918
	918	
	5651	

Total 3 years 14129.

Cusey Ex. —.

2334*k*

CUSEY #1.

C. & A.

Dressed Beef.

Number.	Cause.	Am't paid.	Car number.	Date.
10135	Wreck	511.63	1632	10/30/02
10107	"	614.80	396	9/29/02
10088	Delay	249.37	#194	8/8/02
10080	Delay	333.68	48	6/30/02
10137	Wreck	213.94	1550	10/30/02
10379	Delay	97.83	1485	2/25/03
10504	"	81.96	104	7/2/02
10803	"	56.45	1449	9/23/03
10806	"	54.54	333	7/7/03
10808	Improper Ice	24.84	135	9/21/03
10264	Delay	19.72	1647	1/16/03
10430	"	84.86	1650	1/14/03
10427	"	57.71	1486	7/8/03
10349	"	29.75	611	1/20/03
10275	"	149.99	839	3/6/03
10451	"	43.10	1411	3/6/03
10095	"	91.11	1446	8/5/02
10090	"	457.14	82	7/18/02
10234	"	61.28	1490	8/18/02
10405	"	108.15	382	8/16/02
10406	"	44.15	397	6/16/03
10407	"	39.24	248	8/16/03
10408	"	126.72	94	7/30/03
10634	"	42.07	1477	2/5/03
10680	"	139.60	635	7/7/02
10736	"	78.41	253	8/28/03
10802	Error W/B	88.07	1406	9/21/03
10804	Delay	310.60	348	4/25/03
10809	"	51.78	155	9/8/03
10811	"	49.61	1749	9/11/03
10812	"	148.49	25	9/26/03
10813	"	28.49	1501	1/7/04
10814	"	82.63	1624	11/17/03
10045	"	46.47	1806	6/18/02
10046	"	76.15	89	6/18/02
10066	"	132.44	386	7/2/02

Cusey Ex. —.

2334*l* C. & A. No. 2.

Dressed Beef.

Number.	Cause.	Am't paid.	Car number.	Date.
10075	Delay	219.51	1429	7/31/02
10077	"	221.82	1568	6/30/02
10079	"	177.00	822	7/24/02
10089	"	209.53	851	7/10/02
10110	"	130.22	154	7/21/02
10126	"	98.47	1683	7/12/02
10091	Improper Ice	190.94	205	7/21/02
10206	"	114.15	21189	1/17/03
10233	Delay	45.46	266	11/11/02
10377	"	241.90	808	7/4/03
10401	"	213.16	18	3/12/03
10439	"	158.47	1402	7/7/03
10465	Error W/B	50.07	1429	3/4/03
10480	Delay	68.12	329	12/27/02
10492	Improper Ice	20.48	256	8/16/03
10494	Delay	40.29	848	1/23/03
10583	"	170.29	1429	9/12/03
10585	"	289.00	209	3/13/03
10586	"	199.94	1586	3/13/03
10631	"	196.98	54	1/7/03
10805	"	106.46	56	9/2/03
10807	Improper Ice	125.67	1401	9/26/03
10810	"	201.15	125	9/25/03
11079	Delay	197.01	1820	9/23/04
11080	"	259.20	1493	9/23/04
10087	Wreck	11907.80	16 cars	8/19/02
		20591.75		

Cusey Ex. —.

2334*m* Rock Island.

Dressed Beef.

Number.	Cause.	Am't paid.	Car number.	Date.
10484	Delay	180.06	25055	1/27/03
10486		186.58	15989	1/28/03
10516		153.76	11097	1/23/03
10533		165.37	16043	1/22/03
10298		126.40	265212	1/29/03
10956		277.78	1626	3/3/04
10348		71.84	9017	2/25/03
10536		55.59	265277	1/29/03
10513		116.66	15960	1/29/03
		1384.04		

Cusey Ex. —.

2334*n* Road. Wabash R. R. Dressed Beef.

Number.	Cause.	Am't paid.	Car No.	Date.
10835	Wreck	482.88	1620	6/4/04
10450	Delay	138.76	7159 Art	3/5/03
10779	"	152.23	9027	8/14/03
10476	"	262.45	4047	2/26/03
11120	"	282.33	9293	3/10/04
		1318.65		

Cusey Ex. —.

2334*o* Road. C., M. & St. P. Dressed Beef.

Number.	Cause.	Am't paid.	Car. No.	Date.
10662	Wreck—Shortage	16.63	NYDL-13567	1/29/03
10336	Rough handling	168.38	2800 } CMSP 29994 }	2/23/03
10097	Wreck	211.83	1623	8/14/02
10902	Delay	143.29	29872	3/2/03
		540.13		

Cusey Ex. —.

2334*p* Road. C. G. W. Ry. Dressed Beef.

Number.	Cause.	Am't paid.	Car No.	Date.
10537	Delay	88.92	1459	1/27/03
10498		170.79	637	3/4/03
10534		167.85	1500	1/30/03
10538		167.05	98	2/2/03
10514		119.69	300	1/31/03
10515		153.01	400	1/30/03
10300		306.48	13883MDT	3/6/03
10908		107.08	286	3/2/04
10478		191.94	1478	1/29/03
10376		313.64	13088	3/10/03
10535		105.83	133	1/28/03
10970		79.60	1787	1/30/04
		1971.88		

Cusey Ex. —.

2334q Road. A., T. & S. F. Dressed Beef.

Number.	Cause.	Am't paid.	Car No.	Date.
10018	Delay	69.23	8	2/25/02
10027		120.09	1490	2/27/02
10022		61.47	825	"
10019		199.96	1508	3/11/02
10171	Wreck	178.78	1901 } 652 }	12/23/02
10328	Delay	661.11	1434	6/13/03
		1390.64		

Cusey Ex. —.

2334r Statement of loss and damage claims accruing on account of wrecks and delays in transit, also inattention in the way of icing on shipments from Kansas City via various lines as shown below during 1902-03-04:

C. R. I. & P.	$1334.04
Wabash	1318.65
C. M. & St. P.	540.13
C. & A.	20591.75
C. G. W.	1971.88
A. T. & S. F.	1290.84
Total	$27047.09

Also add to the above $7000.00 covering claims collected at Kansas City on which we have not received advice showing car numbers and the amount of claim against each car, as well as dates cars were shipped.

Cusey Ex. —.

2335 T. W. TOMLINSON, called as a witness in behalf of the petitioner, having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. State your full name.
A. T. W. Tomlinson, residence, Denver, Colorado.
Q. What is your business?
A. I am Secretary of the American Stock Growers Association, an association composed of growers, raisers and shippers of live stock. Our membership comprises stockmen located at various parts of the West.
Q. Including the State of Iowa?
A. Including the State of Iowa, Missouri, Illinois, Kansas, Nebraska, Montana, Texas, Colorado, Utah.
Q. Mr. Tomlinson, will you state your experience in the railroad traffic business in connection with railroad rates, particularly with

respect to the rates and traffic in live stock, and the products of live stock, giving the detail of it, without further question?

A. I have been connected with railroads substantially all of my life since I was seventeen years old. I was first stenographer to the General Counsel of the Gulf, Colorado & Santa Fe Road at Galveston, Texas. After leaving there I was stenographer to a Mr.
2336 Rainier who was Chief Inspector for the Joint Rate Committee. Later on I was Secretary to Mr. G. R. Blanchard, the Chairman of the Central Traffic Association, which is the Association organized by all Eastern lines and operating between the Mississippi River and the Western termini of the trunk lines north of the Ohio River. It had jurisdiction in Central Freight Association territory. I was also Mr. Blanchard's Chief Clerk at the time I left his employ. I was then connected as Secretary of the company and as Superintendent of a road projected westwardly from Sioux City, Iowa. It was built about 150 miles. I was in the Operating Department of that company as Superintendent.

Mr. DAWES: Give the name of the road.

A. It was known as the Pacific Short Line. It is now known as the Sioux City & Northern, a branch of the Great Northern. Then I became connected with the Santa Fe Railroad as an ordinary clerk, and then as tariff clerk, and later as Chief Clerk in the General Freight Department. Later on I was Chief Clerk in the General Agent's office.

In 1897 I became Railway Representative, or rather Traffic Manager of the Chicago Live Stock Exchange, located at the Union Stock Yards. In that position it was a part of my duty to be thoroughly familiar with all rates on live stock, and on its product, and with the relation of all rates as well on other commodities. It also
2337 became necessary for me in that position to be thoroughly familiar with the movement of live stock traffic and with the movement of the product and to keep, of course, a file of tariffs pertaining to both commodities; to keep also necessary statistics as to the movement of live stock traffic; to obtain the reports of the various markets, the statistical information published by the Government, the rate schedules of the various railroads; of the different Commissions, and in fact everything pertaining to the acquirement of knowledge bearing on the relation or the reasonable- of the rates charged on live stock.

I left the employ of the Exchange some two years and a half ago, and was for about two years General Agent of the Chicago Junction Railway, and while in their employ it was also my duty, and I kept in touch with the situation, as to the rates and statistics and everything bearing on the question of live stock movements and the rates both on it and its product.

I keep to-day perhaps, the most elaborate files of tariffs on live stock extant in this country. I have the most elaborate statistical information regarding the reports of the railroads and other data published by the Government or by the State Commissions.
2338 Q. From your experiences, just detailed, I will ask you to state whether you are familiar with all of the matters pertaining to the inquiries which are being prosecuted in this case?

A. Yes, sir, I am.

Q. Mr. Tomlinson, have you prepared or procured statements which show the rates, and the relative rates, the volume of the traffic at the various points, the comparative rates and comparative traffic movements in live stock and its product, and statements which also pertain to operation and cost of operation, earnings, gross earnings, net earnings and other matters pertaining to the rates, relative rates and the volume of business and the transportation service and its cost, on live stock and its products?

A. Yes, sir, I have.

Q. In connection with your work as representative of the Chicago Live Stock Exchange I will ask you whether or not you prepared the evidence and conducted or assisted in conducting the hearing before the Inter-state Commerce Commission of this case?

A. I did.

Q. State in your opinion what ought to be the relative rates between live stock and the product of live stock, between the Missouri river and Chicago and from intermediate points, on the live stock, as well as the product, wherever that is moved, to Chicago?

2339 Mr. SEVERANCE: I object to that question.

The COURT: Isn't it better to get at the facts, state the facts, the result of those facts, and his conclusion will naturally follow?

Mr. COWAN: It might be better to do that, but I think if anybody is competent to express an opinion in regard to it Mr. Tomlinson is, and I think it is a matter of expert knowledge and that an opinion is in the nature of a shorthand rendering of the facts. When he expresses his opinion I intend to ask him in respect to the facts.

The COURT: All the other witnesses gave their reasons and concluded by stating what they thought about it.

Mr. COWAN: That has been done by witnesses for the complainant, I admit, but if I mistake not, in the examination of all the witnesses for the railways they expressed their opinion.

The COURT: They did not state a conclusion until they gave some facts. Objection sustained.

Mr. COWAN:

Q. Mr. Tomlinson, state what rates on live stock and its product would place the shipper of the live stock and the shipper of the product of the live stock on a commercial equality in the markets of Chicago and the other points where they come in competition.

2340 Mr. DAWES: I submit that is the same question

The COURT: Yes, I guess so, but the shortest way is to let him answer.

A. As between cattle, for example, and the product of cattle known as fresh beef, the product rate should be about 175 per cent. of the cattle rate to place the shipper of cattle on an equality with the shipper of beef. The question of the relation of the rates on cattle and fresh beef has been arbitrated several times, and at the time I was secretary to Mr. Blanchard, I, as a stenographer, took certain arbitration proceedings which were held in 1887. Previous

thereto, in 1883, the question of the relation of rates on beef, on cattle and fresh beef had been arbitrated by Honorable Thomas M. Cooley and by Mr. Albert Fink. That arbitration was conducted and concluded in 1883. The conclusion of Mr. Cooley was——

Mr. DAWES: If your Honor please, I submit that this must be matter of documentary record, and if it be competent at all—I have not got to the point of saying about that—it should be introduced as a conclusion showing exactly what was submitted to the arbitration and what the conclusion of those gentlemen was thereon, not the conclusion of this gentleman.

The COURT: I think so. The evidence should be put in and it can be argued afterwards.

2341 The WITNESS: I stated that simply as one of the reasons on which I base my opinion.

The COURT: State the facts.

Mr. SEVERANCE: The question is answered, as I understand it.

The COURT: Go ahead and give the reasons for it. That is what I want to hear, the reasons. The conclusion does not amount to anything unless you state facts.

The WITNESS: In giving the reasons I will take a sample shipments, say from Chicago to New York——

Mr. SEVERANCE: I object to that on the ground that that territory is not the territory under consideration here.

The COURT: Take it the other way.

The WITNESS: I will take it the other way. It makes no difference at all. To put the cattle shipper on a parity, that is supposing they bought—the shipper at Kansas City bought at the Kansas City market, to ship his cattle on to Chicago to be slaughtered here as against the packer at Kansas City who purchased his cattle there with the expectation and who did slaughter them there and shipped the product on, the live stock shipper would naturally have the disadvantage of a shrink and of hauling a greater amount of waste material than would the packer at Kansas City. There would

2342 also be expenses incurred in transporting the cattle from Kansas City to Chicago—outside of the freight rate, I mean, and those considerations, the condensation of the product down to a certain fixed percentage of the live weight, together with the shrinkage and the incidental expenses would make it necessary to equalize those advantages or disadvantages would make it necessary to charge on the fresh meat product, about 175 per cent. of the rate on cattle.

The COURT: That is in order to make them equal here in the Chicago market?

The WITNESS: In order to put them both on a commercial parity, and I might say further, to equalize the natural advantages. By that I mean the shrink—not exactly the shrink, the loss in weight which the packer at Kansas City is enabled to benefit from by reason of not shipping the same amount of weight, that and the shrink in transit, I assume are natural advantages.

The COURT: Isn't Kansas City entitled to that? Do the railroads do anything to balance that up?

The WITNESS: I grant it; I say they are entitled to those natural advantages. The question as I understood, that was asked me, was to put them on a commercial parity, what would be the relation of those two rates.

2343 Mr. COWAN:

Q. If the purchaser of the live stock at Kansas City, or the owner, as to that matter, and the slaughterer of the live stock at Kansas City must each seek the same outlet and compete with each other in the sale of their products at Chicago or at some point east of Chicago, will the one have an advantage over the other unless the rate of freight is made upon the basis which you have named or substantially that basis?

Mr. SEVERANCE: I object to that, because the witness hasn't shown himself qualified to testify as to the matter of slaughter at Kansas City, how it may differ with Chicago or the expenses and all that sort of thing.

The COURT: What do you know about that?

The WITNESS: I am very familiar——

The COURT: Do you know anything about slaughtering or butchering?

The WITNESS: I have never slaughtered a steer. I have made very careful, close inquiry into the methods of slaughtering at all the markets.

The COURT: You may answer.

A. In the question asked me, for both of them to be on an equality it would be necessary for the rate on the product to be 175 per
2344 cent. on the cattle, that is as applied to fresh beef. Any different rate would prevent—for example, if the rates were the same, the shipper could not operate. He might occasionally operate; there would be enough exceptions to prove the rule, but on the basis of the same rate on both commodities the advantages would lie very largely in favor of the party slaughtering at the point of origin, for example.

The COURT: Why is that?

The WITNESS: Why is that true?

The COURT: For the reasons you gave before?

The WITNESS: For the reasons, I gave before, yes, sir.

Mr. COWAN:

Q. Mr. Tomlinson, have you the reports of the various Stock Yard's Companies showing the receipts and shipments at these stock yards?

A. Yes, sir, I have them.

Q. Do these reports correctly represent the traffic into and out of the various stock yards' Companies?

A. Yes, sir, they do. They are the official reports of the Stock Yards' Companies, at the various points, Chicago, Kansas City,

South Omaha, Sioux City and South St. Paul. I have those annual reports in the shape of a little pamphlet. The Stock Yards' Company at St. Louis does not publish an annual report, but a little loose sheet which I do not happen to have, neither does the Stock Yards' Company at St. Joe publish an annual report except in the shape of a little loose sheet which I do not happen to have. The books
2345 show the actual receipts by roads for the periods indicated, and they show it by months and by days. They also show the shipments and the slaughter, and they all have a table showing their total receipts since the inception of the market, in fact they are a complete history of the receipts and shipments of live stock at the various market centers I have mentioned. They are regarded official in every respect.

Mr. COWAN: Please file the reports of exhibits in the following order: Union Stock Yards of Chicago, Exhibit 1; Kansas City Exhibit 2, Omaha Exhibit 3, Sioux City Exhibit 4, and St. Paul Exhibit 5. (Said documents so marked.)

Mr. RANSOM: Those are all for one year, Mr. Tomlinson?

The WITNESS: Yes, sir, 1904.

Mr. RANSOM: All of them?

The WITNESS: Yes, sir, all of them.

Mr. COWAN:

Q. To what other source, Mr. Tomlinson, do you resort to ascertain statistical information with respect to the slaughter and sale of live animals, or their product?

A. One well recognized authority is the Cincinnati Price Curent.

Q. Have you that?

2346 A. I have that. It is an annual publication and contains receipts and shipments at all the markets and shows the packing of hogs, for example, during the winter and summer season and contains also, many other points that do not themselves publish any data as to receipts and shipments. In fact it is a comprehensive digest of all the statistical information obtainable as receipts and shipments and slaughter of live stock.

2347 Q. Is that a reliable publication?

A. It is considered one of the most reliable publications in the country.

Q. I would like you to file that as Exhibit 6 for the year——

The WITNESS: 1905. There is also published a document issued by the Treasury Department, which contains substantially the same information, in perhaps a little more extensive shape.

Mr. RANSOM: 1905 or 1904?

The WITNESS: 1904.

Mr. DAWS: 1905?

The WITNESS: Yes, sir, includes the statistics up to March 1.

Mr. COWAN: March 1, 1905?

The WITNESS: Yes, sir.

Q. It extends up to March 1, 1905?

A. It extends up to March 1, 1905, when the winter packing season ends.

Q. Have you prepared a statistical statement showing the receipts at the various markets for a period of ten years?

A. Yes, sir; I have.

Q. I wish you would file that as Exhibit Number 7 and explain what it is.

2348 (The document referred to was thereupon marked "Tomlinson Exhibit 7")

The WITNESS: This Exhibit is a statement showing the receipts of live stock at various western points, including Chicago, for the past ten years, I have grouped them in 5-year periods, that is taking the receipts for years, 1895, 1896, 1897, 1898 and 1899, and averaged the receipts and compared them with receipts for the five years commencing 1900 and ending in 1904. By this means, taking five years, you are able to arrive at what fairly represents the condition as to receipts of live stock at these various markets. One year would not be a fair comparison, for the very obvious reason there might be a shortage of live stock in the territory tributary to that market, and it is only by taking a five year period that you can arrive as somewhere near what is the approximate growth or increase of the business at any one point. I have compared this information for Chicago, Kansas City, South Omaha, Sioux City, South St. Paul, St. Joseph, Ottumwa and Cedar Rapids. They are compiled from the documents now in evidence, and have shown the percentage of increase, if there be an increase, for the latter 5-year period over the former 5-year period.

Mr. COWAN: Is it a fact or not that that document shows an increase in particular markets?

A. It does.

2348*a* TOMLINSON EXHIBIT No 7.

Statement showing receipts of Live Stock at Union Stock Yards, Chicago, for the ten-year period ending December 31, 1904; also showing the yearly average for the first five years of said period, also the yearly average for the second five years of said period, and showing further the percentage of increase or decrease.

Years.	Cattle.	Calves.	Hogs	Sheep.	Horses.
1895.....	2588558	168740	7885283	3406739	113193
1896.....	2600476	138337	7659472	3590655	105978
1897.....	2554924	122976	8363724	3606640	111601
1898.....	2480897	132733	8817114	3589439	118754
1899.....	2514446	136676	8177870	3682832	111611
Total....	12739301	699462	40903463	17876305	561137
Average..	2547860	139892	8180693	3575261	112227
1900.....	2729046	136310	8109064	3548885	99010
1901.....	3031396	181824	8290494	4044095	109353
1902.....	2941559	251747	7895238	4515716	102100
1903.....	3432486	271743	7325923	4582760	100603
1904.....	3259185	267499	7238746	4504630	105949
Total....	15393672	1109123	38859465	21196086	517015
Average..	3078734	221825	7771893	4239217	103403
Inc. p. c.	20.8	58.5		18.6	
Dec. p. c.			4.1		7.8

Above figures are compiled from the 39th Annual Report of the Union Stock Yards and Transit Company for the year ending December 31, 1904, page 45.

2348*b* Statement showing receipts of Live Stock at Kansas City Stock Yards for the ten-year period ending December 31, 1904; showing also the average yearly receipts for the first five years of said period, and also the average yearly receipts for the second five years of said period, and showing also the percentage of increase or decrease.

Year.	Cattle.	Calves.	Hogs.	Sheep.	Horses and mules.	Cars.
1895...	1613454	76198	2457697	864713	52607	103368
1896...	1714532	100166	2605575	993126	57847	113594
1897...	1817526	104436	3350796	1134236	37006	123047
1898...	1757964	88269	3672909	980303	17483	121426
1899...	1912019	105465	2959073	953241	33775	116479
Total..	8815495	474534	15046050	4925619	198718	577914
Aver...	1763099	94907	3009210	985124	39743	115583
1900...	1969718	113077	3094139	860449	103308	128892
1901...	2000165	126410	3716404	980078	96657	134958
1902...	2082541	196625	2279337	1154084	76844	117730
1903...	1953371	183741	1969381	1151730	67274	113807
1904...	1996610	166861	2227170	1004099	67562	116628
Total..10002405		786714	13286431	5150440	411645	612015
Aver...	2000481	157341	2657296	1030088	82339	122403
Inc.p.c.	13.47	65.78		4.61	107	5
Dec. p.c.			11.6			

Above figures are taken from the 34th Annual Report of the Kansas City Stock Yards for the year ending December 31, 1904, page 4.

2348c Statement showing receipts of Live Stock at Union Stock Yards, South Omaha, for the 10-year period ending December 31, 1904; showing the average for the first 5 years of said period, also the average for the second 5 years of said period, and showing also the percentage of increase of the second period over the first.

Years.	Cattle.	Hogs.	Sheep.	Horses and mules.
1895	586103	1186726	204870	7077
1896	586578	1216370	358005	9347
1897	810949	1610981	627160	6572
1898	812244	2101387	1085136	10392
1899	837563	2216482	1086319	34255
Total	3633437	8331946	3361490	67643
Average	726687	1666389	672298	13528
1900	828204	2200926	1276775	59645
1901	818003	2414053	1314841	36391
1902	1010815	2247428	1742539	42079
1903	1071177	2231067	1863763	52829
1904	944192	2299627	1754365	46845
Total	4672391	11393100	7952283	237789
Average	934478	2278620	1590456	47558
Inc. p. c.	28.6	36.7	136.57	25.6

Figures taken from the 21st Annual Report of the Union Stock Yards Company of Omaha, Neb., for the year 1904, page 42.

2348*d* Statement of receipts of Live Stock at the Sioux City Stock Yards for the ten-year period ending December 31, 1904, showing the average for the first five years of said period and the average yearly receipts for the second five years of said period, and the percentage of increase of the second period over the first.

Years.	Cattle.	Hogs.	Sheep.	Horses and mules.
1895	110278	341056	14336	419
1896	142238	279451	10425	146
1897	294161	353290	9699	201
1898	300937	474238	20861	1079
1899	348109	568306	36081	8109
Total	1195723	2016341	91402	9954
Average	239144	403268	18280	1991
1900	300437	833141	61342	30668
1901	307529	959964	66930	18364
1902	399128	1007762	61275	19151
1903	372506	1007900	41774	12044
1904	326657	1113177	28464	4185
Total	1706257	4921944	259785	84412
Average	341251	984389	51957	16882
Inc. p. c.	42.7	135.1	184.2	747.9

Above figures are taken from the Annual Report of the Sioux City Stock Yards Company for the year 1904, page 19.

2348*e* Receipts of Live Stock at South St. Paul for the 10-year period 1895 to 1904, inclusive, showing the average for the first 5 years of this period and the average for the second 5 years, and showing also the percentage of increase or decrease of the second 5-year period over the first 5-year period. All figures taken from Annual Report of the St. Paul Union Stock Yards Company for the calendar year of 1904, page 8.

Year.	Cattle.	Calves.	Hogs.	Sheep.	Horses.	Cars.
1895.....	87426	4481	361449	173674	125	9801
1896.....	91049	5730	310012	198890	75	9169
1897.....	170854	27114	239852	314642	252	11204
1898.....	170424	42320	333352	429365	1431	13857
1899.....	165813	51132	364854	382035	5745	14119
Total.....	685566	130777	1609519	1498606	7628	58150
Average....	137113	26155	321903	299721	1525	11630
1900.....	170675	44095	494960	485770	26760	17185
1901.....	149161	33911	609480	330689	15120	16439
1902.....	258615	39812	659479	600859	8162	22582
1903.....	252088	42503	750671	872900	7822	24623
1904.....	344158	36803	872329	769751	6429	28835
Total.....1174697		197124	3386919	3059969	64293	109664
Average.... 234939		39424	677383	611993	12858	21932
Inc. p. c.... 71.3		51	110.4	104.2	87	88.5

S. St. Paul.

2348*f* Comparison of yearly packing of Hogs at South St. Paul for the 10 years ending March 1, 1905, showing the yearly average for the first 5 years of said period, compared with the average for the second 5 years of said 10-year period, and showing the percentage of increase of the second 5 years over the first 5 years.

1895-6	318035
1896-7	251463
1897-8	173110
1898-9	354485
1899-00	394093
Total	1491186
Average	298237
1900-1	514385
1901-2	658591
1902-3	715237
1903-4	810988
1904-5	884187
Total	3583388
Average	716677
Increase, per cent	140

Figures as to hog packing taken from Cincinnati Price Current Statistical Annual for 1905.

2348*g* Statement showing total yearly packing at Ottumwa, Iowa, for the 10-year period ending March 1, 1905; showing also the average for the first 5 years compared with the average for the second 5 years, and showing also the percentage of increase of the second period over the first.

1895-6	335053
1896-7	505709
1897-8	627049
1898-9	702173
1899-00	688939
Total	2858923
Average	571784
1900-1	653785
1901-2	610002
1902-3	441680
1903-4	486991
1904-5	669342
Total	2861800
Average	572360
Increase p. c	1

Above figures taken from Cincinnati Price Current Statistical Annual for 1905, page 10.

Statement showing total yearly packing at Cedar Rapids, Iowa, for the 10-year period ending March 1, 1905; showing also the average for the first 5 years compared with the average for the second 5 years, and showing also the percentage of increase of the second period over the first:

1895-6	347904
1896-7	435819
1897-8	457792
1898-9	483625
1899-00	427637
Total	2152777
Average	430555
1900-1	496308
1901-2	496790
1902-3	391524
1903-4	501789
1904-5	495121
Total	2381532
Average	476306
Increase p. c	11.9

Above figures taken from Cincinnati Price Current Statistical Annual for 1905, page 10.

(Endorsed:) Filed Oct. 14, 1905, Marshall E. Sampsell, Clerk.

2349 Q. Will you explain at this point, Mr. Tomlinson, what is deducible with respect to the increase or decrease at the markets from those figures, as briefly as you can.

A. This shows the growth or expansion of the markets on the Missouri River and interior Iowa points, and South St. Paul.

Mr. SEVERANCE: Does that include Chicago, also?

The WITNESS: Yes, sir; includes them all. Take South Omaha for the five years ending December 31, 1904, the percentage of increase compared with the five years preceding 1900, was on cattle—this is all receipts—28.6 per cent.; hogs 36.7 per cent.; sheep 136.57 per cent.; and horses and mules 25.6 per cent. I will read Chicago first, that you may have in mind the relative increase.

The COURT: Have they all increased?

The WITNESS: Chicago decreased in hogs and decreased in horses.

Mr. RANSOM: In five years?

The WITNESS: Yes, in five years. Chicago increased 20.8 in cattle; 58.5 in calves; decreased 4.1 in hogs, increased 16.6 in sheep. Kansas City shows an increase of 13.47 per cent. cattle.

Mr. SEVERANCE: Less than Chicago?

The WITNESS: Yes, an increase of 65.78 in calves, a de-
2350 crease of 11.6 in hogs, an increase of 4.61 in sheep and 107 per cent. in horses and mules, and a general increase of 5 per cent. in cars.

Mr. SEVERANCE: It decreased more in hogs than at Chicago?

The WITNESS: Yes, sir, and in——

Mr. SEVERANCE: And increased less than cattle?

The WITNESS: Yes, that is right.

The COURT: Cattle rather than hogs.

The WITNESS: I might explain there that that is largely attributable to the fact that the St. Joe market came in there at that time and it will be perfectly plain when I read the St. Joe figures how that arises, and I will read them now—I will get them in half a minute. I will finish by reading South St. Paul—Sioux City increased, cattle, 42 per cent., hogs 135 per cent., sheep 184 per cent., and horses and mules 749 per cent. South St. Paul increased 713 per cent. in cattle, 51 per cent. in calves, 110 per cent. in hogs, 104 per cent. in sheep, 87 per cent. in cattle, and 88.5 per cent. in cars.

Mr. DAWES: So we will understand it, the increase which you say was in cars, do you include horses and mules?

The WITNESS: They happened to include them in there, but I did not segregate them.

2351 Mr. DAWES: When you say increase of so many cars in this market, does that include increase of horses and mules?

The WITNESS: In South St. Paul?

Mr. DAWES: Any market.

The WITNESS: Yes, where it says so.

Mr. DAWES: I am not considering what is mules and sheep; I want to call your attention to that; have you them all segregated?

The WITNESS: I was afraid if I left it out there would be the same criticism if I put it in, and it reflects the condition of the market

here, because it is shown in the annual report that they are all in there. I simply put them in. They can be easily noted——

Mr. COWAN: Mr. Tomlinson, let me ask you if it is not a fact that these cattle reports do not show the total number of cars on each stock but the total number of head and shows the total number of cars of all stock.

The WITNESS: That is why I told Mr. Dawes I couldn't seggregate them. Here is a comparison of the yearly packing of hogs at South St. Paul, ten years ending March 1, 1905, showing for these periods an increase over the first five years of 140 per cent.

Mr. SEVERANCE: Mr. Tomlinson, you know don't you, that
2352 the Yards were not established there until 1887, or it was, rather, a new proposition.

The WITNESS: No, I beg your pardon. Will you let me have those exhibits?

Mr. SEVERANCE: 1888, according to the annual report you have introduced here.

The WITNESS: I am talking about the St. Paul market. In 1889 and 1890 St. Paul packed 299,000 hogs, in 1890 she packed 335,000; in 1901 276,000. That includes from 1890 to 1905, that is fifteen years they have been packing hogs up there. I can't go back any further than that.

Mr. SEVERANCE: I don't ask you to. I just called your attention to the fact that the Stock Yards were not established until 1888, so that in 1895, when your figures begin they were rather a young industry there.

The WITNESS: Well, I will accept the correction. It shows, however, the increase in hogs since 1895 to 1904. St. Joe is a much newer market than over St. Paul, and it shows a more marvelous increase. If you will permit me I will get the statement.

Adjourned until 10 A. M., Friday, October 6, 1905.

2353 FRIDAY, *October* 6, 1905—10 o'clock a. m.

Court met pursuant to adjournment.
Counsel present same as before.

Whereupon T. W. TOMLINSON, resumed the stand for further direct examination by Mr. Cowan:

Q. At the adjournment, you were introducing in evidence an exhibit showing the comparative receipts and slaughtering, I believe, of live stock, at the several markets which you named, that is, the Missouri river markets, St. Louis Chicago and St. Paul. You were stating what the increased were and the percentages of increase, and you retired to get a statement relative to St. Joseph, and the court adjourned at that point. You were about to make some explanation in regard to the establishment of the St. Joseph market. If you recollect the point that was in your mind, please proceed and make such explanation as you then were beginning.

A. The St. Joseph statement shows that the past five years compared with the preceding five years of that ten year period, the re-

ceipts of cattle increased, 274 per cent. Calves 710 per cent.;
2354 hogs 167.2 per cent., sheep 552 per cent. and the total number of cars of live stock 219.34 per cent.

The St. Joe market, while it has been a market for a great many years, commenced to increase its receipts along in the latter part of 1897. For example, in 1895, it had 49,000 cattle, in 1898 it had 225,000, and in 1904, 554,000. On hogs, in 1895, it had a quarter of a million, and last year they had over a million and a half.

The St. Joe Market, the large increase in its receipts, dates, as I said from 1897, and the increase in receipts since then at that point has also been reflected measurably in the decrease in the receipts at Kansas City.

Take all the markets, that is, Kansas City, St. Joe, Omaha, Sioux City and South St. Paul, the increase in the receipts of hogs for the past five years, the annual increase, amounts to 2,303,090 head. During the same period the annual decrease at Chicago has been 401,800 head.

There has not been the same percentage of increase in the receipts of cattle as of hogs. The purpose of these statements——

Mr. SEVERANCE: I object to counsel making an argument. He should make statements of fact and not forget that he is a witness and not acting as counsel in the case. He should just state
2355 the facts and not state the purposes. That is for Mr. Cowan to do.

The WITNESS: The statements show that the Missouri river markets, South St. Paul, have increased their receipts and the slaughter has increased relatively much greater than at Chicago. This is true, also, of the interior Iowa packing points.

Mr. DAWES: Do you mean in the last five years?

A. Yes, and that is also true if you go back ten years or fifteen years. In other words, the markets in the west have grown much faster than has Chicago. Chicago has not got as many receipts now as she had in 1891. That is, their maximum receipts of cars in 1890 and 1891, and she has never reached the high water period of those two years since then.

Mr. COWAN:

Q. Explain the cause of the increase and decrease in the live stock movement and slaughter shown in your exhibits under discussion.

A. One of the causes undoubtedly is the increase in the packing facilities at these other markets. Another cause is the adjustment of the freight rates. Which one is the greater, it is very difficult to say. Both undoubtedly contribute to the increase.

Q. In the application of the freight rates from Missouri
2356 river points to Chicago, what have you ascertained, if anything, relative to whether shipments are made actually upon the 23½ cent rate from the Missouri river to Chicago?

A. From my investigation I am satisfied that there are no shipments being made upon the 23½ cent rate from Missouri river

points to Chicago. The same is also true of St. Paul. There is no shipment made from that market that pays either the 25 cent rate on cattle or the 27 rate on hogs. They are simply basing rates.

Mr. SEVERANCE:

Q. What is that?
A. They are simply basing rates.

Mr. BAXTER:

Q. Will you explain what you mean by the term "basing rates"?
A. Well, that is the basis that obtains from intermediate territory. It is a rate which covers a wide extent of territory and is the basis for that territory.

The COURT:

Q. You mean that no rate, in no case, is 25 cents from St. Paul, or 23½ cents from the Missouri river?
A. I never heard of any.
Q. Or from intermediate points, this side of there?
A. Oh, from intermediate points it is paid, yes, sir. I am speaking entirely of the river market.

Mr. SEVERANCE: You mean that the stuff is moved on the
2357 proportionate?

A. Yes, or the balance of the rate.

Mr. DAWES:

Q. Nothing originates there at this point?
A. What say?
Q. Very little originates there?
A. Yes, there is some live stock originates both at Kansas City and Omaha and St. Joe.

The COURT:

Q. Don't that pay the local rate, or does that come through on the balance?
A. What I meant to say was, some originates there because it is driven in there.
Q. What does that pay?
A. Well, if it came on, it would pay the 23½ cent rate; but it does not come on by reason of the freight rate adjustment. It is more profitable to sell there than it would be to attempt to come on. Of course there might be some of this traffic which would come on, and it might pay that rate, but I doubt if there is any instance of it.

Mr. COWAN:

Q. It is a mere nominal amount?
A. Yes, sir, purely nominal.
Q. If any moves upon it?
A. If any moves upon it.

Q. Just refer to the report at Kansas City and Omaha, and call attention at such points to the amounts shown to be driven in.

A. At South Omaha during the year 1904 there was driven
2358 in 12,604 head of cattle, 34,474 head of hogs, and 44,334 head of sheep.

At Kansas City, for the year 1904, there was driven into the yards 15,371 head of cattle, 3,505 head of hogs, 38,081—no, 3,505 head of calves, 38,081 head of hogs, and 15,129 head of sheep.

Q. Now, Mr. Tomlinson, I desire to ask—Oh, you were not through, you were turning for the other?

A. Yes. At Sioux City there was driven in during 1904, 9,558 head of cattle, and 13,053 head of hogs; 2,127 head of sheep; at South St. Paul——

Mr. RANSOM: Will you let me have that large exhibit? I want to follow you as you give those figures. I think that is just the same.

The WITNESS: At South St. Paul there was driven in 8,107 head of cattle, 591 calves, 8,871 hogs, 2,740 sheep.

Mr. COWAN:

Q. Now, Mr. Tomlinson, have you examined the tariff to ascertain what application is made of the proportional rate (published within the last year, as I understand it) on live stock coming to Chicago, which originates west of the Missouri river? What I mean by that is, does that apply to the stock driven in, and apply to stock originating on other lines of railroad?

A. It would not apply to stock driven in. The tariff
2359 publishing this 18½ cent rate, the freight tariff of the Western Trunk Lines Association, No. 201, reads as follows.

Q. Give the page.

A. Page 16, item No. 86: "Cattle or hogs, carloads, and sheep in double-decked cars, originating on connecting lines, to Mississippi river points, 13½; to Peoria and Pekin, 18½; to Chicago, Kankakee and Milwaukee, 20 cents."

Q. Now, is that the proportional rate which the witnesses have been testifying about?

A. That is the proportional rate, yes, sir; proportional in this way: it applies on traffic from connecting lines destined to Chicago. It is applied as a local rate by the Santa Fe road from Kansas City and intermediate points.

There is also another proportional rate of 18½ cents on cattle and hogs which applies on traffic received from connecting lines at the Missouri river, for example, destined to points east of Chicago.

There is no proportional rate on live stock received from connecting lines at South St. Paul. I mean by that, that there is not the same kind of proportional rate made from South St. Paul as there is from the Missouri river; neither is there any proportional rate from any of these interior Iowa points, nor is there one from Sioux City.

2360 Q. Explain the difference between what you have just mentioned as a proportional rate and what has several times

in this case been denominated a proportional rate by the questions and by some witnesses, which applies on a shipment, for example, from North Dakota through St. Paul to Chicago, if it tries the market at St. Paul and moves on?

A. Traffic coming from North or South Dakota via St. Paul moves on a through rate.

Q. To where?

A. To Chicago, if it is coming to Chicago. The balance of the rate, that is, the difference between the rate to St. Paul and the rate to Chicago, is called the balance of the rate.

That might vary from 12 or 13 cents up to as high as 17 or 18 or 20 cents. I would say that the average difference would be around 15 cents or 15½ cents.

There is no proportional, that is, no flat even proportional rate; it is the balance of the rate and it varies very much, depending almost entirely on the point of origin. The rates, in that sense, are a great deal different than they are, for example, from Texas.

Now, the rate on cattle from Texas or Oklahoma and Indian Territory points to Chicago is uniformly 16¼ cents higher than to Kansas City. Take the Colorado common points, the rate on
2361 cattle is uniformly 16 cents higher than to Kansas City, and on sheep it is 17 cents.

They have a uniform difference, but so far as Kansas stations are concerned, Nebraska, Wyoming, Idaho, North and South Dakota and Montana, there is no even difference. It is purely arbitrary and depends upon the point of origin of the stock.

Q. What you have said as to the balance of the rate via Kansas City applies via Omaha likewise?

A. Yes, sir.

Q. That is, in shipments from Colorado?

A. Yes.

Q. But that would not apply in shipments from Texas?

A. No. Omaha takes a little different basis of rates than Texas and Kansas City does.

Q. On what is the Texas rate based, is that on St. Louis or Kansas City?

A. That is very difficult to say. The Chicago rate is based on St. Louis.

Q. The additional Chicago rate?

A. Yes, sir.

Q. Is the difference between Chicago and St. Louis uniform from Texas and Indiana and Oklahoma Territory points?

A. Almost, not entirely.

Q. What is that?

A. Well, 11¼ and 10¼ cents.

Q. Do you recollect whether that is the amount of the Illinois distance tariff from St. Louis to Chicago?

A. No, the Illinois distance tariff from St. Louis to Chicago is higher than that.

2362 Q. Do you know whether anything moves on that tariff from St. Louis to Chicago?

A. On the Illinois distance tariff?

Q. Yes.

A. I would not think so. I doubt if there is ever a shipment that moves from St. Louis to Chicago on the Illinois distance tariff, that is, on live stock.

Q. They manage in some way to ship it on a lower rate?

A. Yes, all the live stock that comes into St. Louis, except perhaps a few thousand head, move in there on some kind of a rate, and the balance of the rate would be very much less than the Illinois distance tariff. In some cases it might be as low as 10 cents.

Q. What is the volume of the fresh meat and packing house product tonnage, east bound, out of Missouri river, and to what sources of information did you apply to ascertain the fact?

A. The most authentic data on the volume or tonnage of live stock and its product east bound from the Missouri river, is found in the statements filed by Mr. J. V. Mahoney, showing the actual tonnage. That, however, does not include all the traffic, because there might be a great deal moved to the southwest which is not included in that statement.

Using that statement and the annual report of these various
2363 markets, showing the slaughtering and the receipts, it is deducable, in my opinion, that 75 per cent. of the total product of the Missouri river markets moves east bound across the Mississippi river, for consumption in the east or for export.

That is not true of South St. Paul, because the bulk of their product is consumed in that territory west thereof; but, as regards the Missouri river markets, I am satisfied that 75 per cent. of the total output goes east, for consumption or export.

Q. Have you, as thoroughly as statistical information could possibly afford an opportunity to do so, made an investigation with a view of ascertaining the facts which you have just testified to?

A. Yes, I have. It is a very difficult matter to make an absolute mathematical calculation on it, but I am satisfied that that figure is within one or two per cent. of what the actual movement is.

Q. How many cars of live stock does it take to make the average car of fresh meat packing house product?

A. Well, if you are figuring on the basis, say, of the minimum of 22,000 pounds in a carload of cattle, and the minimum on fresh meat of 20,000 pounds, and the cattle dress an average of about 55 per cent., and only the dressed carcass is shipped, you can readily
see that it takes almost two carloads of cattle to make a car-
2364 load of fresh meat.

The total product, merchantable product, of cattle, in weight represents, according to the best obtainable information, about 67 per cent. of the gross weight of the animal. On sheep it is less than that, and on hogs it closely approximates 78 to 80 per cent.

The Missouri river markets slaughter more cattle and sheep than they do of hogs, and that is also true at South St. Paul. Therefore, in arriving at any calculation as to the amount of the product, or the weight of the product, compared with the live animal, you must take into consideration the fact that they slaughter more pounds of

animals which dress out less than the hogs. In other words, they slaughter more cattle and sheep than they do hogs.

Taking all these factors into consideration, I estimate that about 70 per cent. of the total gross weight of the animals, as weighed in at the river markets, is shipped in the shape of product, or the product is produced and the product then represents 70 per cent. of the gross live weight of the animals. That is, excluding the hoofs and the horns and the fertilizer.

Q. Why do you exclude the hoofs, horns and fertilizer?

A. Well, in the first place it is very doubtful whether they are shipped, at least eastwardly, and they are made into so many
2365 other different articles of less weight, that it is almost impossible to make a close approximation of what they actually represent. The fertilizer is not shipped east.

Q. That is, you mean not shipped east via Chicago?

A. Yes, sir.

Mr. RANSOM:

Q. You don't exclude the hide?

A. Oh, no.

Mr. COWAN:

Q. Where is the fertilizer market of this country?

A. Well, I don't think I would be a very good authority on that.

Q. Now, what is the comparative number of the cars of fresh meat and packing house product that is shipped via Chicago—Strike that out, Mr. Reporter. Assuming that the car of products which you have mentioned, and the weights you have stated, shipped to Chicago, about what number of carloads does one carload of fresh meat and packing house product represent? I mean, how many cars of live stock?

Mr. SEVERANCE: Why, he just stated that.

The WITNESS: Substantially, two.

Mr. SEVERANCE: He said 70 per cent. would be shipped.

Mr. COWAN: I am asking now about the carloads.

Mr. SEVERANCE: He said a carload of live stock weighs
2366 heavier than a carload of dressed meat.

Mr. COWAN: No, no, he did not. He was speaking of the minimum weights shown in the tariff, not what they weighed. He was speaking of the minimum weights.

Q. What I want to get at is, what information you have ascertained to show the relative number of carloads of live stock represented in a carload of packing product or dressed meat?

A. I would say two.

Mr. SEVERANCE: I think he should give it in pounds, instead of giving a general statement that way.

The COURT: Well, let him give it both ways.

Mr. SEVERANCE: Well, if he gives it both ways, that is all right.

The WITNESS: I was saying, in a general way, that two carloads

of live stock represented one car of fresh meat or one car of packing house product.

Mr. COWAN:

Q. Now, state, Mr. Tomlinson,——

Mr. SEVERANCE: Wait a minute. The Court said he might give it in pounds, too.

The WITNESS: Well, that is almost impossible, unless you know just what the average carload of fresh meat and packing house product is, and the average weight of a carload of live stock.

2367 Mr. SEVERANCE: I cannot hear anything you say.

The WITNESS: I say that is almost impossible, unless you know exactly the average weight of a carload of fresh meat and packing house product, and the actual average weight of a carload of cattle.

Mr. SEVERANCE: Then your opinion is not based on figures. All right.

The WITNESS: It is based on approximate figures.

Mr. COWAN: I don't think that remark of counsel's is justified, either.

The WITNESS: It is based on approximate figures.

The COURT: Go ahead. What is the next question?

The WITNESS: On the basis of 70 per cent. of the weight, it is easy enough to see what a carload of live stock would represent in the shape of product.

Mr. COWAN:

Q. Can you state what is the difference in the prices paid at these different markets on the Missouri river, and the prices paid at Chicago, for live stock?

A. There is no uniform difference. Chicago is always higher than the river markets or South Omaha, or the interior Iowa points. At the interior Iowa points they pay, usually, a fixed arbitrary price on the Chicago price.

That is not so generally the case at the Missouri river, but the prices average considerably more in Chicago and so also do

2368 the prices at St. Paul. There is no absolute fixed difference.

Q. What fixes the price, are you able to say?

A. Oh, the natural laws of supply and demand.

The COURT:

Q. You don't believe it is the monopolies, then?

A. Why, I imagine there are conditions under which the price can be controlled, but I doubt if in the present situation it would be possible to long manipulate the prices, because they are largely dependent upon the export demand. For example, Chicago——

Mr. DAWES: Would it be possible for you to sit back further? We cannot hear anything here.

The WITNESS: I started to say that there are over 500,000 head of export steers purchased on the Chicago market. They are pur-

chased largely by independent buyers, exporters, and that has an influence on the course of the prices at this market.

Mr. COWAN:

Q. Are there other independent buyers, than the export buyers?

A. Yes, there are a number of buyers for interior slaughtering points in the east; Pittsburg buyers are on the market, and Buffalo buyers, buyers for New England points and southeastern points, Cleveland and Detroit.

Q. Now, as to other classes of cattle than those which are
2369 bought for export, and other classes of cattle than those which are bought to be shipped to these interior points, is there any condition whereby any particular individual, firm or corporation, in your judgment, may fix in a measure, partially or wholly, the prices which are paid at Chicago and at the Missouri river markets?

A. Oh, they might fix them in part, but I would not say wholly.

Q. Are the same principal buyers for slaughtering at Missouri river, and for slaughtering at Chicago, engaged in business at both places?

A. The same buyers or slaughterers that are represented at the Missouri river markets and South St. Paul, are also represented at Chicago, but there are a large number of buyers at Chicago that are not represented at the river markets or at these interior Iowa points. Take Cedar Rapids, for example: they have only got one buyer and that is the packer. At South St. Paul it is confined almost to one or two buyers, except, possibly, some feeder buyers there, but so far as the slaughtering is concerned, they are confined practically to one buyer.

Q. To what extent are the live stock which come to the Missouri river from the west thereof and south, shipped on to Chicago? Have you any statement explanatory of the amount of the traffic of that character?

2370 A. There is a comparatively small amount of live stock originating west of the Missouri river which comes on to the Chicago market.

Mr. RANSOM:

Q. How is that?

A. I say there is a comparatively small amount. In previous years—ten years ago—Chicago got as high as 500,000 head of cattle from Texas. Today she gets scarcely 75,000 head.

I have here a statement showing the receipts of stock at the Union Stock Yards at Chicago for five years commencing with 1900, and extending down to December 31, 1904. It shows the receipts in cars.

There were shipped into the Chicago market from Colorado, during 1904, 1194 cars of live stock. From Indian Territory they shipped 48 cars of live stock. From Kansas 3010 cars of live stock; from Nebraska, 6064; from Oklahoma Territory, 186 cars; Texas, 3466; Utah, 183; Wyoming 1769. There was forwarded through

from the other markets, forwarded through the other markets, 6,190 cars.

Q. What does that show for the previous period, you said you had it for some previous period?

A. The five years shown on this statement show comparatively little difference between the receipts now and what they were then. The large decrease dates from the establishment and the
2371 increase in the slaughtering facilities at the Missouri river markets. In other words, there has been practically little change in the receipts of live stock from points west of the Missouri river into Chicago, during this five year period.

The COURT:

Q. Do you think a change in this rate would make any difference?

A. Not entirely, your Honor. The change in the rate is purely nominal. It is well understood that the rate now prevailing——

Mr. SEVERANCE: Will you kindly turn around again?

The WITNESS: The rate prevailing previous to the time this 18½ cent rate was put into effect, was the same as the 18½ cent rate, or less. In other words, traffic moved then at not any more than it is moving today.

The COURT:

Q. You mean there were rebates?

A. Yes.

Mr. DAWES:

Q. You know that, I suppose?

A. Well, Mr. Stickney's circular letter, in evidence in this case, and which will be read, states that the prevailing rate for about ten or fifteen years, was 16 1/10 cents. I presume his information is from authentic data. It is generally so understood, that the rate never has been any more than 18½ cents, and frequently a little less.

2372 The COURT:

Q. Then, instead of lowering the rates, they have raised the freight rates?

A. That is according to Mr. Stickney's circular letter.

Q. That is the claim?

A. That is the claim.

Mr. SEVERANCE: That is your testimony, too.

A. That the rates are higher today on these products?

Q. Yes.

A. No, sir.

Q. I thought you said just a moment ago——

A. My statement entirely referred to the Missouri river. Take South St. Paul, the rates are lower today than they ever have been, and I doubt whether, in face of the reduction, they were made as low now, in fact, today.

The COURT:

Q. You mean the balance of the rate?

A. No, I am talking about the fresh meat and packing house product rate. From Cedar Rapids, 13½ cent rate on fresh meat and packing house products, I am satisfied never was as low by any method of rebating or otherwise, as that rate.

Mr. DAWES: They don't kill any cattle at Cedar Rapids, do they?

A. Very few.

Mr. SEVERANCE: Cattle for local consumption.

Mr. COWAN:

Q. I wish you would explain in connection——

The COURT:

Q. Do you claim that they have, in fact, raised the rates
2373 on dressed meat?

A. No, sir.

Q. You say Stickney says so?

A. Yes, sir.

Q. Do you believe it?

A. My opinion is that the prevailing rate from the Missouri river today is about the same as it has been for a great many years, and that the prevailing rate from South St. Paul is perhaps a little less than the rate has been for a good many years, and that the published rate from Cedar Rapids will average less than the charge collected for the same service some years ago.

Mr. COWAN:

Q. Now, when you use the expression "prevailing rate" you mean——

A. I mean the published rate.

Q. You mean the amount of revenue that is actually received and not the published rate?

A. Yes, sir.

Q. And during the time of this lower actual charge, the published rate, however, was 23½ cents, was it not?

A. Yes, sir.

Q. And from St. Paul what was the published rate?

A. The published rate from St. Paul, south bound, on fresh meat, previous to the change, was 20 cents, and on packing house product, 18½.

Q. Was that actually collected, or some smaller amount?

A. I doubt if it was actually collected.

Mr. LYNDE:

Q. You don't know anything about it, Mr. Tomlinson, do
2374 you?

A. Well, I know something, yes.

Mr. SEVERANCE: I think the witness should state what he knows, and not his doubts. We all have "our doots."

The COURT: It is easy to be suspicious.

The WITNESS: The question was asked me and I gave my opinion about it.

The COURT: They want you to give your reasons. You gave a very good reason in the other case.

Mr. COWAN:

Q. What do you base that on with reference to St. Paul?

A. The fact that the packers always did get something off from the rate.

Mr. LYNDE:

Q. That is suspicion, isn't it?

Mr. SEVERANCE:

Q. You mean they did, prior to the time these rates were put in?

A. Yes.

Q. You don't mean that they do now?

A. Oh, no. No, I think the rates are very rigidly maintained now.

Mr. COWAN:

Q. Now, in connection with the statement with Mr. Kenyon, please show the amount, the relative amount, of shipments from these various places, briefly, but sufficiently to illustrate the point, into the Missouri river, as compared with the Chicago market,

2375 from the west and south of the Missouri river.

A. Take the State of Kansas, according to Mr. Kenyon's exhibit for the year 1904, Kansas City received 1,271,542 head of cattle. During that same year Chicago received from Kansas 2,779 cars of cattle, which on the basis of 20 head per car, would amount to about 56,000 head. The comparison then would be that Chicago received 56,000 head from Kansas, while Kansas City received 1,271,000.

On hogs, during the year 1904, there were shipped into Kansas, City from the State of Kansas, 1,343,396 head of hogs. During that same period Chicago received from Kansas 51 cars of hogs; and, at the average of 70 per car, it would be about 3,500.

Kansas also shipped into St. Joseph, 131,046 head of cattle, into Omaha, 5,814: into Sioux City, 1,308; into St. Louis, 66,484.

Take Nebraska, during the year 1904, Omaha received from Nebraska 590,061 head of cattle. During the same period Chicago received from Nebraska, 4,473 cars of cattle, and on the basis of 20 head to the car, it would be approximately, 90,000 head of cattle that Chicago received from Nebraska, against 590,000, which South Omaha received.

Nebraska also furnished to Kansas City 50,000 head, to St. Joseph, 150,000 head, and to Sioux City, 23,000 head.

2376 On hogs, Nebraska contributed to the Omaha market, 1,599,909 head of hogs. During the same period there were shipped to Chicago from Nebraska, 317 cars of Hogs, or approximately, 21,000 head of hogs into Chicago from Nebraska territory.

During the same year Nebraska contributed to Kansas City, 61,761 head, to St. Joseph, 276,288 head, and to Sioux City 216,268 head.

Q. What other facts are shown by those exhibits that you have in your hand that are necessary to explain?

A. Take the State of South Dakota, which is in a part of the range country. During the year 1904, Omaha received from South Dakota 45,000 head of cattle, Sioux City, 129,000; St. Paul, 14,000, approximately.

During the same period, Chicago received 10,899 cars of cattle from South Dakota, which, on the basis of 20 head to the car, would be, approximately, 220,000 head of cattle from South Dakota.

Take Montana——

Mr. DAWES:

Q. How many did you say were shipped into Omaha from South Dakota? Will the reporter read that?

(The portion of the answer referred to was then read.)

The WITNESS: Take Montana during the year 1904, Kansas City received 144 head of cattle from Montana; Omaha 11,246
2377 head; St. Joseph, 24 head; Sioux City 721 head; St. Paul, 75,668 head.

During the same year Chicago received from Montana 5,649 cars, which, on a basis of 20 to the car, would amount to, 133,000 head.

The statement shows that the only territory west of the Missouri river which ships stock into Chicago in any large volume, is the Montana territory, South Dakota territory and Idaho.

The other states, Kansas, Nebraska, Colorado, Indian and Oklahoma territories and Texas, relatively, shop only a very small proportion to Chicago. There are many reasons for this, notably the rate situation.

Q. Explain how the rate situation affects it. Why is it that so many are shipped from South Dakota to Chicago, whereas, from Nebraska and Colorado they are not shipped to Chicago?

A. The difference in the rates from the range country in South Dakota, the Belle Forche country, for example, to Chicago, compared with the Missouri river (and this also applies as well to a portion of Wyoming), is 12 cents per hundred pounds.

In other words, a man can ship to Chicago by paying only 12 cents over the Omaha rate. That is on cattle, and there is
2378 nothing but cattle raised up in that particular range territory; some few sheep.

In Montana, the average difference between the rate to St. Paul and Chicago ranges from 13 to 15 cents.

Mr. SEVERANCE:

Q. And below 13 cents in some cases?

A. Yes; I am giving approximate ranges. In Colorado the difference is 16 cents on cattle, and 17 cents on sheep.

Mr. COWAN:

Q. What part of Colorado?

A. That is the Colorado common points.

Q. You had better explain what part of Colorado that applies to, the eastern half, Denver, Pueblo, and east of there?

A. That covers Denver, Pueblo, Colorado Springs, Trinidad, and certain intermediate points between those stations, running up also into Cheyenne, Wyoming, and covers about half of the intermediate territory between those Colorado common points and the eastern line of the State of Colorado.

From Colorado points, that is, not eastern Colorado, they are adjusted differently, ranging from 16 cents to 19 cents on cattle, and a trifle more on sheep.

In some parts of western Colorado the difference is very much less than that. Texas, the difference is 16¼ cents between the Missouri river, Kansas City and St. Joseph and Chicago, and approxi-
2379 mately 11¼ cents between St. Louis and Chicago.

Kansas will average, on cattle, close around 18 cents, from 17 to 20 cents, the difference between the rate to Missouri river and to Chicago, and Nebraska will average about the same; Wyoming the same, and Idaho substantially the same, except from one district, known as the "Spencer District," where the difference between the Missouri river and Chicago is only 7½ cents, and a large number of sheep from that particular district come to Chicago by reason of that adjustment.

Mr. SEVERANCE:

Q. That is from what point?

A. Spencer, Idaho.

Q. Seven and a half cents above the St. Paul rate?

A. Above the Missouri river rate.

Mr. COWAN:

Q. Belle Fourche is the largest single cattle shipping point there is in the range country in the northwest, is it not?

A. Yes, sir.

Q. That is on the Northwestern road out near its terminus?

A. Yes.

Q. And shipments from there to the Missouri river would move about 636 miles to Omaha?

A. Approximately, yes.

Q. And to Chicago, something around 500 miles further?

A. Yes.

Q. They come to Chicago, however, at 17 cents more, only
2380 than they go to the Missouri river?

A. Yes.

Mr. LYNDE:

Q. What is the total rate?

A. Forty-eight cents.

Q. Forty-eight?

Mr. COWAN: The Omaha rate is 36?

A. Yes, sir.

Q. So that you account for these shipments to Chicago rather than to the Missouri river, on the basis of the rate adjustment and the prices paid?

A. Entirely so,—almost entirely. The 12-cent rate, of the balance of the rate, almost equalizes the 18½ or 20-cent rate on the product, that is, it puts them on a commercial equality.

Q. That is, it puts them on a commercial equality?

A. Yes.

Q. Where?

A. At the market of slaughtering or the market of consumption, at Chicago, for example.

Q. The live stock can be forwarded on from Omaha as cheaply as carcass by the live stock shipper, who can do it at 12 cents, as the packer can send it on the 18½ or 20-cent rate, is that your idea?

A. Yes, sir, that is right.

Q. Is there any other factor which would direct the movement of live stock to Chicago from South Dakota, which would not also be equally potent in the movement from Colorado common points to Chicago?

A. No, sir.

2381 Q. What is the distance from Belle Fourche to Chicago, via Omaha?

A. 1150 miles.

Q. What is it from Denver, via Omaha to Chicago?

The COURT: What is what?

Mr. COWAN: From Denver, via Omaha?

A. 1080 miles, around 1100 miles, approximately.

Q. The rate from Denver is what?

Mr. JEFFRIES:

Q. 1028 miles would be better, wouldn't it?

A. That is the short line mileage of the Burlington; yes, I will accept that.

Mr. COWAN:

Q. The rate from Denver to Chicago is what?

A. Forty-nine cents.

Q. And to Omaha?

A. Thirty-three cents.

Q. Now, in the case of the Montana districts where the cattle are principally shipped from, say, the vicinity of Billings, is it as near from Billings to Kansas City or Omaha as it is from Billings to Chicago, or nearer?

2382 A. Billings is at the junction of the B. & M. and Northern Pacific, is it not?

Mr. SEVERANCE: Yes.

Mr. COWAN:

Q. But practically nothing goes to Omaha from there?

A. Very little, they got 11,246 head.

Q. From the entire State of Montana?

A. The entire State of Montana to Omaha.

Mr. LYNDE: The natural movement is to St. Paul—they reach Chicago by way of St. Paul, isn't that the natural course over the Northern Pacific to St. Paul?

A. Not any more so than by the B. & M.

Mr. COWAN:

Q. Now, I will ask you Mr. Tomlinson, whether there is a large district of country on the Burlington southeast of Billings, two or three hundred miles, from which there is a great number of cattle shipped?

A. Yes, sir, that is also in the range territory.

Q. Both in the States of Montana and Wyoming?

A. Yes, sir.

Q. How do you account for the fact that those cattle come more to Chicago than they do to the Missouri River?

Mr. DAWES: I object your Honor, to the assumption, I
2383 don't think that is the fact. I would like to have the gentleman ask him if they do.

The COURT: Find out whether it is true or not.

The WITNESS: I was going to straighten that out.

Mr. COWAN:

Q. He had already read the total amount from Montana to Omaha, is the reason I assume that.

Mr. LYNDE: I think it was omitted, I have got a note that he didn't name it.

Mr. COWAN: It was not purposely omitted by me.

Mr. LYNDE: You didn't name it.

The COURT: State the facts.

The WITNESS: Now, take Wyoming: According to Mr. Kenyon's exhibit which I have compared and am satisfied is correct, the receipts of cattle from Wyoming at Omaha amount to 95,318 head; at Kansas City, 2,303 head; at St. Joseph, 3,523 head; at Sioux City, 433 head. The receipts of cattle at Chicago from Wyoming during the same year amounted to 1260 cars which, at an average of 20 head per car would be 25,200 head.

Mr. COWAN:

Q. Now, state the rate from the Wyoming points.

Mr. SEVERANCE: Will you be kind enough to state the totals of those so we can carry them in mind.

A. That would be as follows:

Wyoming to Chicago, 25,200 head,

2384

Wyoming to Chicago	25,200 head
To Kansas City	2,303 head
To Omaha	95,318 head
To St. Joseph	3,523 head
To Sioux City	433 head

Mr. SEVERANCE: About 100,000?
A. Approximately.

Mr. COWAN:

Q. Now, state the rate adjustment from Wyoming to the Missouri River compared to Chicago.
A. Certain parts of the B. & M. are based—are adjusted on the basis of a difference of 12 cents. Take the Union Pacific and parts of the Northwestern—in Eastern Wyoming, the difference will range about 6 cents.
Mr. SEVERANCE: Six cents?
A. Sixteen cents, I should say. Other parts of Wyoming will average close to 18½ or 19 cents.

Mr. COWAN:

Q. Take Cheyenne as an example, what is the rate from Cheyenne by the Union Pacific to Omaha?
A. Twenty-nine cents.
Q. What is it to Chicago?
A. Forty-eight cents.
Q. Forty-nine, I think, the same as the Denver rate.
Mr. LYNDE: Mr. Tomlinson, where does this 16-cent rate come from?
2385 The WITNESS: You are correct Mr. Cowan, it is 49 cents.
Mr. LYNDE: This 16-cent rate, what portion of Wyoming does that prevail from?
A. It prevails on points north of Cheyenne, not including Cheyenne by the way, and prevails, I think, from most stations on the Northwestern line.
Q. It is 12 cents on all those, the Bellefourche rate.
A. Take your Casper line.
Q. It is 12 cents there?
A. Is that 12 cents?
Q. I think you will find you are mistaken.
The COURT: What is the difference between Cheyenne and Omaha to Chicago?
A. Nineteen and twenty cents.
Q. Twenty cents difference?
A. Yes, sir.

Mr. COWAN:

Q. Now, that part of Wyoming west of Cheyenne on the Union Pacific line, what is the difference and how is it made up?
A. The rates in to Omaha and Kansas City from stations on the Union Pacific west of Cheyenne are stated in dollars and cents per car on cattle, and the rates to Chicago are stated in cents per hundred pounds. Reducing the dollars and cents in the car rates to cents per hundred pounds, the average difference would be somewhere around 18½ to 19 cents. By that I do not mean that those are the extremes. It may run as low as 15 cents, and as high as 21 cents, the average is about 18½ or 19 cents.

2386 Q. Now, take a shipment for example from Laramie, the dollars per car rate, if it stopped at Omaha, it is sold on the rate of so much per car, is it not?

A. Yes, sir.

Q. But if it goes on to Chicago, the freight is paid on the basis of the 48 cents from Laramie, is it, or 49, whatever it is?

A. I don't remember the Laramie rate.

Q. But whatever the rate is?

A. Whatever the rate is, it is cents per hundred pounds.

Q. How does the change from dollars per car to cents per hundred pounds from that district affect the difference or increase in the rate?

A. Where live stock is shipped in dollars and cents per car, it has been the custom of the shipper to load a great deal more in the car than where the rates are made in cents per hundred pounds. For example, take Denver: The rates from many Colorado points in to Denver and from some Wyoming points in to Denver are made in dollars and cents per car, and the average weight of cattle in a 36 foot car in to Denver will be about 27 to 28 thousand pounds, and the shipper would undoubtedly load somewhere near that weight on shipments in to Omaha from Wyoming or Colorado for example. Coming in to Chicago, the rates are stated in cents per hundred pounds, at the established minimum, which is 24,000 pounds from parts of Wyoming.

Q. Now, if a car load weighs more than the minimum?

2387 A. If the car weighs more than the minimum of course, he pays at the actual weight; therefore, as between shipments made to Chicago and South Omaha, the difference is really relatively much more than the figure I have named for that reason.

Q. Of the total shipments from the State of Wyoming, what portion of the State has the dollars per car rate to the Missouri River, and what portion has the cents per hundred pounds to the Missouri River?

A. According to my best recollection, only the stations west of Cheyenne on the Union Pacific, including the Oregon Short Line. The B. & M. rates on cattle and the Northwestern rates on cattle *and the Northwestern rates on cattle,* I believe are all stated in cents per hundred pounds; and to Chicago they are all stated in cents per hundred pounds, the difference being from those U. P. stations and Oregon Short Line stations named. They are stated to the Missouri River points in dollars per car.

Q. Is it a fact or not that the largest proportion of the cattle shipments from the State of Wyoming move to the Missouri River on the dollars per car basis?

A. Yes, sir. I——

Q. And what proportion?

Mr. SEVERANCE: Just a moment, let him finish the answer.

Mr. COWAN: If you were going to say something else, go ahead.

2388 Mr. SEVERANCE: May be not, I thought he looked as though he was going to talk.

The WITNESS: I would like to correct that answer. I am inclined to think there is very little difference.

Mr. COWAN:

Q. Are you able to state what portion of the State of Wyoming would ship on a difference of 12 cents, assuming it to be correct as stated by Mr. Lynde that the 12 cents differential is applicable on the Northwestern Road?

A. What proportion of the shipments?

Q. Yes, sir.

A. That would be a most difficult question to answer accurately, and I prefer not to give an opinion on it. It might vary.

Q. Mr. Tomlinson, have you prepared statements relative to the movements of live stock from the East to the Missouri River?

A. Yes, sir.

Q. Please file as an exhibit, the papers you have just been referring to, the statistical table.

A. Yes, sir, I will.

(The document referred to was filed as a part of the testimony of said witness, and marked "Exhibit No. —.")

2388a *Statement Showing Yearly Receipts at Kansas City of Live Stock Originating East of Missouri River.*

Year.	Number of head from east of Missouri river.					
	Cattle.	Calves.	Hogs.	Sheep.	H. & M.	Cars.
1896	125,623	8,117	410,869	59,455	7,646	12,236
1897	157,894	14,885	546,508	64,718	6,250	15,567
1898	228,244	9,475	615,485	72,884	2,351	18,316
1899	185,049	7,914	412,172	80,891	5,768	13,872
1900	230,975	15,442	435,388	88,752	27,205	17,413
1901	305,237	15,024	642,854	107,533	26,885	22,515
1902	176,319	6,147	551,714	110,826	22,396	15,791
1903	169,677	4,727	368,809	90,772	15,581	14,097
1904	220,790	8,061	454,063	116,826	16,263	17,280

Statement Showing Yearly Receipts at South Omaha of Live Stock Originating East of Missouri River.

Year.	Number of head from east of Missouri river.				
	Cattle.	Hogs.	Sheep.	H. & M.	Cars.
1896	41,158	119,322	8,727	220	3,843
1897	75,559	200,939	21,151	150	6,494
1898	70,655	294,986	13,110	297	7,690
1899	95,831	348,473	60,978	543	9,529
1900	92,126	461,016	32,443	851	11,140
1901	138,716	803,978	66,321	3,056	18,115
1902	137,428	873,677	55,007	2,348	18,620
1903	161,754	928,414	56,399	7,199	20,794
1904	114,263	675,101	42,727	2,467	15,015

*Statement Showing Yearly Receipts at South St. Joseph of Live Stock Originating East of Missouri River.**

Year.	Number of head from east of Missouri river.					
	Cattle.	Calves.	Hogs.	Sheep.	H. & M.	Cars.
1897	26,636	541	198,819	3,276	589	3,774
1898	102,300	3,303	447,546	29,261	3,318	11,260
1899	117,058	3,122	441,470	24,909	1,380	11,993
1900	135,152	2,364	581,684	31,159	2,030	15,037
1901	183,303	4,670	905,522	57,972	5,418	21,668
1902	186,851	6,103	931,685	76,003	8,792	21,536
1903	200,943	8,106	831,362	86,737	8,462	21,627
1904	180,493	10,256	735,731	60,704	9,649	18,651

*Receipts at South St. Joseph via A., T. & S. Ry. not included in receipts east of Missouri River.

2388*b* *Grand Summary,*

Showing total receipts of live stock at Kansas City, South Omaha, and South St. Joseph from points east of Missouri river during years indicated. Receipts at South St. Joseph via A., T. & S. F. Ry. from points east of Missouri river are not included in the receipts from east of Missouri river.

Year.	Receipts from east of Missouri river.				
	Cattle & calves.	Hogs.	Sheep.	H. & M.	Cars.
1897	265,515	941,266	89,145	6,989	25,835
1898	413,977	1,358,017	115,255	5,966	37,266
1899	408,974	1,202,115	166,778	7,691	35,394
1900	476,059	1,478,088	152,354	30,086	43,657
1901	646,950	2,352,354	231,826	35,359	62,298
1902	512,848	1,517,076	241,836	33,536	55,387
1903	545,207	2,128,585	233,908	31,242	56,518
1904	533,863	1,864,895	120,257	28,379	50,946

Mr. COWAN: Mr. Tomlinson informs me that he will have a copy prepared and filed. He wants to keep this original.

Mr. SEVERANCE: Have you got more than one?

The WITNESS: I will see that a copy is put in the record,
2389 and that you are furnished one.

I want to make an explanation in regard to this statement so that it may go in the record.

Mr. DAWES: What is that now, Mr. Tomlinson, that you have in your hand, read the caption.

A. This is a statement of the receipts of live stock by cars at the Union Stock Yards, Chicago, for the years 1900 to 1905 inclusive, by months and totals for the year.

Mr. BAXTER: Does it also show by States?

A. Yes, sir; showing the States of origin and showing the amount forwarded from other markets.

It is not in head, and there is no way of obtaining the information as to the exact number of head contained in these cars. Of course, we know the average, but not the actual number. There are no statistics kept out at the Stock Yards showing the actual number of head received from each State. The statistics are kept as to the number of cars.

Mr. BAXTER: Well, now, in order to ascertain the number of head, you have been multiplying by twenty to the car, haven't you?

A. That is what I have been using, yes sir.

Q. Well, we can do that.

A. Yes, sir.

Mr. COWAN:

Q. Twenty and seventy, seventy for hogs and twenty for
2390 cattle?

A. Yes sir, 70 for hogs and 20 for cattle.

Mr. BAXTER: That is a key to your statement?

A. Yes, sir

Q. Would you mind to prevent confusion, making a memorandum on there showing that in order to ascertain the number of head, multiply by 20 for cattle and 70 for hogs?

A. I will do so.

Q. It would help us very much.

A. While I have this statement before me, I wish to further say that the State of Iowa shipped into Chicago for the year 1904,

50,440 cars of cattle,
41,677 cars of hogs,
3,412 cars of sheep,
2,297 cars of horses,

A total of.... 97,826 cars.

During 1900, Iowa contributed	.....	117,789 cars,
During 1901,	.....	109,504 cars,
During 1902,	.....	96,704 cars,
During 1903,	.....	119,896 cars,
During 1904,	.....	19,826 cars.

Mr. SEVERANCE: That is the time of the strike?

A. Yes, sir.

Mr. BAXTER: The cars you were just reading off then include horses and all other kinds of stock?

A. Yes, sir.

2391 Q. Will you be kind enough to give us the number of cars of cattle, and number of cars of hogs for each of those years shipped to Chicago from Iowa?

A. Do you wish me to read it into the record?

Q. Yes sir, if you please, just at that point.

A. In 1900..... 55,910 cars of cattle,
55,632 cars of hogs,
4,356 cars of sheep.

Q. I don't care about the sheep.

Mr. DAWES: Can't you leave out horses and sheep in both those computations, because I think they confuse us.

A. Yes sir, I will.

Mr. SEVERANCE: Just put in cattle and hogs.

A.

In 1901..... 50,314 cars of cattle,
51,397 cars of hogs,
In 1902..... 46,533 cars of cattle,
43,632 cars of hogs,
In 1903..... 66,341 cars of cattle,
47,571 cars of hogs,
In 1904..... 50,440 cars of cattle,
41,677 cars of hogs.

Mr. SEVERANCE: Which market is that?

A. That is at Chicago from Iowa.

Mr. RANSOM:

Q. How much was it in 1905?

A. I haven't got the figures for 1905.

2392 Q. You haven't got the figures for the first seven months of 1905?

A. No sir.

Q. Then you do not supply Mr. Kenyon's statement with that fact as to the first seven months, the origin of stock coming in to Chicago during the first seven months of 1905, you don't supply that with your statement?

A. I will supply Mr. Kenyon with the information.

Q. I thought it was in that statement.

Mr. COWAN: No.

The WITNESS: No, sir.

Mr. COWAN: He said it was not in that statement, the first seven months of 1905.

Mr. BAXTER: Can you get that information by telephone, or otherwise, so as to put it in to the record here?

A. For 1905?

Q. Yes, cattle and hogs from Iowa received here at Chicago up to this date?

A. The only way I can obtain the information is from the statistician of the Union Stock Yards & Transit Company. They may not have that written up yet for the seven months. If they have got it, I can get it.

Mr. SEVERANCE: They can write it up between now and next Wednesday, can't they?

A. I should think so, yes sir.

Mr. COWAN: They can if they will.

2393 Mr. DAWES: They got you this, they might be willing to get you the other.

Mr. COWAN: No, they didn't, most of it was written up by him and he brought it down to date.

The WITNESS: This is my private statement.

Mr. SEVERANCE: If you would tell them you would subpœnae one of their men in here with that information, I think that would induce them to make it up.

Mr. COWAN: We can get it in a few days.

Mr. RANSOM: When Mr. Kenyon testified, he said they would not furnish that information, Mr. Tomlinson volunteered the statement that he would furnish that information and we dropped it there and did not subpœnae anybody for that reason.

Mr. SEVERANCE: It may not appear as you want it (Addressing Mr. Cowan).

Mr. COWAN: There is nothing to controvert about it, there is no objection to our getting it if we can get it.

Q. Now, Mr. Tomlinson, answer the other questions I asked you relative to the movement of live stock from easterly in to the Missouri River, from Iowa and Missouri and other points.

A. The combined annual receipts of live stock at Kansas City, South Omaha and South St. Joseph, from points east of the

2394 Missouri River during the years 1897 to 1904 inclusive, as follows:

During 1897, 25,835 cars,
1898, 37,266 cars,
1899, 35,394 cars,
1900, 43,657 cars,
1901, 62,298 cars,
1902, 55,387 cars,
1903, 56,518 cars,
1904, 50,946 cars.

This does not include receipts into South Omaha from points on the A. T. & S. F. Railway east of the Missouri River, nor does it include any live stock driven in to these three markets, from points east of the Missouri River; neither does it include receipts at Sioux City from points east of the Missouri River.

Q. Will you please file that statement as an exhibit to your testimony?

A. Yes, sir.

(The document referred to by the witness was filed as a part of his testimony, marked "Tomlinson Exhibit No. 8.")

Mr. DAWES:

Q. You have not stated Sioux City—you said South St. Joe.

A. It includes the receipts at Kansas City, South Omaha and South St. Joseph. It does not include Sioux City because

2395 I did not have accurate enough information or data on which to make the statement up. The statement is com-

piled from the official records of the stock yard companies at these points, and the Sioux City record does not show any segregation of receipts from points east and west of the Missouri River. Including Sioux City there probably should be added to these figures——

Mr. SEVERANCE: Now, is this mere speculation on your part? You say you have no figures on which to base it?

A. It is an opinion based on my general knowledge.

Mr. SEVERANCE: It must be a mere guess.

The COURT: You didn't think enough of your opinion to put it in the statement, so I guess you need not give it.

A. The statement is compiled from the actual figures. I was giving an estimate on Sioux City. I can give Mr. Kenyon's figures on Sioux City, which perhaps, may be——

Mr. SEVERANCE: They are already in, there is no use spending time on that.

The COURT: Yes, they are in.

Mr. COWAN: Just read that for the purpose of the record at this point.

Mr. SEVERANCE: It is already a part of the record.

Mr. COWAN: It would be consecutively for the whole markets if he now states it, what is Mr. Kenyon's statement?

The COURT: For Sioux City only, go ahead.

2396 A. Sioux City received from the State of Iowa during 1904, 58,410 head of cattle, and 386,035 head of hogs.

Mr. RANSOM: That is all we want.

Mr. COWAN:

Q. If you haven't already done so, state why these cattle from the various points southwest of the Missouri River in the States and Territories which you have mentioned, States of Colorado and Wyoming, do not move to Chicago but stop at the Missouri River.

Mr. SEVERANCE: Your Honor, he has given the rates and I don't think his opinion is proper.

The COURT: Let him give his opinion, he has studied this matter a great deal.

A. Largely on account of the adjustment of rates on live stock and its product.

The COURT: Well, how much of it?

A. It will be impossible to say, to give any mathematical percentage of the effect of the adustment of those freight rates. Undoubtedly, the enlargement of the packing facilities at the Missouri River market have something to do with it, as well as the adjustment of freight rates. Perhaps the enlargement of the facilities at the Missouri River might be dependent upon the freight rate. You cannot ascribe the result to any one particular cause, but among the causes——

2397 The COURT: Are there better packing houses and better facilities at Kansas City, St. Joe and Omaha than they have further north?

A. Have they any better facilities?

Q. Yes, at St. Joe, Kansas City and Omaha, they are three pretty good points right there near together.

A. Yes, sir.

Q. Wouldn't that account a good deal for the cattle coming there from the southwest?

A. Certainly, nearness of the market has something to do with the drawing of the stock to those markets.

Q. And the facilities, will not that account for the fact that cattle come from the southwest and do not come from the northwest to those points, rather than the rates?

A. The natural route from the southwest is to those markets; well, it would be perfectly natural for cattle to move from the southwest to Kansas City, St. Louis, or St. Joe for example, but owing to the location of the railroads serving the northwest, it is not natural for live stock to go in to Kansas City from Montana for example.

Mr. COWAN:

Q. How is it at Omaha?

A. The territory served by the B. & M., it is natural for the Montana stuff to go in to South Omaha because the B. & M. operates through South Omaha, coming on its way to Chicago from Montana.

2398 Mr. SEVERANCE: That don't enable Montana to get to Omaha, the B. & M. reaches Montana at Billings, and there is a large amount of stock country east of Billings that naturally comes to St. Paul?

A. Yes, sir.

Q. Doesn't the matter of shrinkage have a good deal to do with the stuff stopping at these points?

A. No doubt it does have a great deal to do with it, the shrinkage, the less expense of marketing—in other words, it is expensive for a shipper—the incidental expenses of him coming on further, have a little to do with the thing; but the freight rate adjustment, that is, the rate on which the packer can move his stuff for example, from the Missouri River as compare- with what the live stock man will have to pay through on the balance of the rate, or proportional rate is such that he is almost compelled to stop at, and sell to the packer at that point, unless the rate on live stock is approximately around 11 to 12 cents. Wherever it is more than that——

Mr. RANSOM: What is the rate from Billings to the Missouri River?

A. I think it is 36 cents.

Q. And what is it to Chicago?

A. Forty-eight.

Q. Forty-eight. And coming from Billings, the live stock man would not need to go to South Omaha at all, the through
2399 freight goes through Plattsmouth, 20 miles south of South Omaha?

A. If it is billed through, it would not go there unless he wanted it to.

Q. That is where the bridge is, Plattsmouth, about 20 miles below South Omaha?
A. Yes sir.

Mr. COWAN:

Q. I think all that will come on cross examination.
Mr. RANSOM: I know, but I wanted to ask it while he was here on that point.

Mr. COWAN:

Q. At this point I would like you to state whether in your opinion there is an advantage in the rate adjustment, and explain as nearly as you can the amount of the advantage to the shipper of the dressed meat and state whether in your opinion it is reasonable or not.
Mr. SEVERANCE: Now, if the Court please, he has been all over that except the last thing, which is his opinion on the reasonableness of it.
Mr. COWAN: The gentleman asserts that I have been all over one thing and another, and when the record is produced the thing isn't there, and then they say in argument to the Court, why didn't you testify to it.
The COURT: I would suggest that you divide the question, drop off that first part and get at that later.

2400 Mr. COWAN:

Q. State whether or not the rate adjustment gives an advantage to the shipper of the dressed meat product and packing house product?
A. Yes sir.
Q. What is that advantage?

Mr. DAWES: He said 175 per cent., that is his testimony

A. The advantage would be represented by the difference between 100 and 175 per cent.

Mr. COWAN:

Q. Why?
Mr. DAWES: I submit, your Honor, he has been all over it and explained it once and given in detail the reason, have you not Mr. Tomlinson?
A. Not at all points or in all aspects.
The COURT: Let him answer.
A. In other words, for the shipper of live stock to be afforded the benefit of a world-wide competition, his rates so far as compared with the rates on the product should be on the basis of, the product 175 per cent. and the live stock 100 per cent. That would put them both on a commercial parity. Take for example, a concrete example such as Cedar Rapids. The rate on packing house product from Cedar Rapids to Chicago is 13½ cents. That is also the rate on fresh meat. The rate on cattle from Cedar Rapids to Chicago is 21 cents,

and on hogs, 18½ cents. A shipper of live stock located
2401 at Cedar Rapids, is, by reason of this present adjustment almost forced to sell his stock to the slaughterer at that point, because the slaughterer can market the product so much less relatively than the shipper can ship the live stock for example, to Chicago. There may be an advantage, a seeming advantage to the shipper or the locality, by reason of this product rate, but it is an advantage which the shipper is not able to enjoy because he does not slaughter his own stock, and he can secure a part of the advantage only through the medium of the packer at that point. That is true also of, or applies as well to the Missouri River markets and South St. Paul, all these interior Iowa points, and to points in Kansas or Nebraska where the rates on the product are also less than on the live stock.

Q. Have you got a statement in your hand there which shows the relative difference. I see you had something in your hand.

A. Yes sir, I have a statement showing the rates on live stock to Chicago, Illinois, from Ottumwa, Des Moines, Marshalltown, Cedar Rapids, Boone, Iowa Falls, Oskaloosa and Mason City; also the rates on packing house products and fresh meats and the proportional rate on packing house products from those points to the Mississippi River.

Q. Please file that statement as an exhibit to your testimony.

2402 (The document referred to was filed as a part of the testimony of the witness, marked "Tomlinson Exhibit No. 10.")

2401a Ex. 10.

To Chicago, Ill., From—	Cattle.	Hogs.	Packing house products.	Fresh meats.	Proportional on P. H. P.
Ottumwa..... Ia.	22	21	16	18	5
Des Moines ..... "	22	23.5	18.5	18.5	7
Marshalltown.... "	22	21	16	16	5
Cedar Rapids.... "	21	18.5	13.5	13.5	4
Boone..... "	23	23.5	....	....	7
Iowa Falls..... "	..	....	....	..	7
Oskaloosa.. ..... "	22	21	....	....	5
Mason City..... "	..	....	...	...	7

Tomilson Ex. #10.
C. P. D.

A. I also have a statement showing the comparative rates on live stock and its product from certain Kansas and Nebraska points to Chicago. For example, take Fremont, Nebraska: The rate on cattle to Chicago is 30½ cents; hogs, 30 cents, and the rate on fresh meat is 23 cents, and on packing house products, 21½ cents.

Mr. DAWES:

Q. Is there any product shipped from any of those places, does any originate there?

A. Yes, some little.

Q. How much, which one?

Mr. SEVERANCE: Is there anything from Fremont to Chicago?
A. I could not state positively.
Q. You know there is not?
Mr. DAWES: There is not very much of it?
A. Not a great deal.
Mr. RANSOM: Mr. Tomlinson, will you explain the advantage that a packer has over the live stock man on a shipment from Billings to Chicago through Plattsmouth.
A. I think the 12-cent difference in the rate between the Missouri River and Chicago about equalizes the advantages, not quite. If the difference was about 11 cents, it would about equalize the advantage of the 18½-cent rate.

2403 Mr. SEVERANCE:

Q. You don't take into account the shrinkage in making that estimate?
A. Yes sir.
The COURT: In order to get the business then the Chicago packer has got to pay 7 or 8 cents more a pound than the people at the Missouri River point?
Mr. DAWES: Per hundred pounds?
The COURT: Yes, per hundred pounds, at the Missouri River points?
A. Yes sir, relatively.
The COURT: How much do they pay, what is the market difference generally.
A. Let me correctly understand your previous question.
Q. Well, there is a difference between the 11 or 12 cents and 18 or 18½ cents, of seven or eight cents?
A. Yes sir.
Q. Now, if they pay that 7 or 8 cents, the Chicago people pay that 7 or 8 cents, would that get the business, would they get the live stock business, if they paid 7 or 8 cents more than they are paying now, or more than the Kansas City people and the Omaha people pay?
A. I may be a little dense, your Honor, but I do not quite catch the point. The difference between the Omaha market and Chicago on Montana stuff might range 25 to 30 cents, perhaps more, perhaps a little less.
2404 Q. The ordinary difference is 25 or 30 cents, is it?
A. Yes sir.
Q. Well, if they paid this 7 or 8 cents more could they get the business, would the people ship from Montana clear through here?
A. Well, the bulk of the Montana stuff does come in to Chicago.
Q. Well, take some other place.
A. The difference between the rate from Billings to Chicago over the Missouri River, would be 12 cents. Now, I claim that somewhere between 11 and 12 cents equalizes the difference between—equalizes the 18½ or 20 cent rate on the product.
Q. Well, if the people here in Chicago at the Stock Yards paid

7 or 8 cents more for Kansas Stock, would they get that Kansas business instead of having the rate cut down, could they get the cattle by paying 7 or 8 cents more?

A. They would get a larger percentage of it, yes sir.

Mr. SEVERANCE: But you say it would be 25 cents more.

A. They would get a larger percentage.

The COURT: Go ahead.

Mr. COWAN:

Q. You may file those two statements as exhibits.

Mr. DAWES: I object to the filing of the statement as incompetent and not tending to throw light on the issues, the state-
2405 ment which makes a comparison between the live stock rate and the packing house rate from certain points like Fremont there, when it appears there is no packing house there.

Mr. RANSOM: Fremont, Nebraska?

Mr. DAWES: Yes.

Mr. RANSOM: There is no packing house there.

Mr. DAWES: There isn't at any of these.

The COURT: Let him file what he wants to.

Mr. COWAN: What have you got the rate for, you have got the rate published.

Mr. DAWES: To induce them to start them.

The COURT: Ask him a question Mr. Cowan.

(The statement above referred to by the witness was filed as a part of his testimony, marked "Tomlinson Exhibit No. —.")

Mr. COWAN:

Q. Have you got a statement of the rates from interior Iowa points and a map which shows the zone of the 23½-cent rate?

A. Yes sir.

Q. Just explain what that map shows, Mr. Tomlinson.

A. This is a map of the State of Iowa, published by Rand & McNally, supposed to be an official map. The blue pencil marks represent the distances east of the Missouri River that the 23½-cent rate on hogs applies.

2406 Mr. DAWES: The perpendicular blue marks. The circles have reference to some other matter.

The WITNESS: The rate on hogs of 23½ cents applies from all stations west of Chariton, Iowa, through to Omaha on the B. & M. and the 23½ cent rate on cattle applies from all stations west of and including Creston, Iowa, on the B. & M. On the C. M. & St. P. the eastern part of the 23½ cent zone is Madrid, Iowa, on hogs and Perry, Iowa on cattle. On the Northwestern the eastern point in the zone on hogs is Boone, and on cattle, Ogden. The 23½ cent zone on cattle applies to the following distances east of Omaha:

Via the Illinois Central..... 175 miles
Via the Rock Island..... 100 miles
Via the C. M. & St. P..... 116 miles
Via the C. & N. W..... 140 miles
Via the C. B. & Q..... 107 miles

An average of 126 miles.

Mr. SEVERANCE: What about the Great Western. You don't give the Great Western.

A. I didn't give the Great Western.

Q. No; how far east does it apply?

A. I will look it up. I did not purposely omit it, I simply didn't include it.

Q. I would like to have it in with the rest. Can't you turn to something there that will show it?

2407 A. I haven't the tariff before me of the Great Western; no, sir.

The COURT: Well, you can add that later.

A. On hogs, the 23½ cent rate applies:

By the Illinois Central..... 184 miles east of Omaha,
By the C. R. I. & P..... 164 miles,
By the C. M. & St. P..... 150 miles,
By the C. & N. W..... 152 miles,
By the C. B. & Q..... 166 miles,

An average of 163 miles.

This shows that substantially from half the State of Iowa, the 23½ cent rate on cattle and hogs to Chicago applies. Up around Sioux City and north thereof, the rates will average higher. The rate on cattle from Sioux City is 25 cents, and on hogs, 23½ cents, and in northwestern Iowa the rate will average higher than the 23½ cent basis. But on all this strictly intermediate territory in western and southwestern Iowa, or half way across the State, the zone, the 23½ cent rate applies in that zone.

So far as St. Paul is concerned, the rate of 25 cents on cattle, and 27 cents on hogs does not apply to as great a distance, from as large a zone as the 23½ cent rate applies from. In other words when you get 50 or 60 miles away from South St. Paul, the rates commence to decrease.

2408 Mr. COWAN:

Q. You have some blue pencil circular marks on that map, which please explain briefly.

A. The blue pencil circular marks are drawn with Ottumwa, Cedar Rapids and Marshalltown as centers and they show how far under the Iowa Distance Tariff the 10 cent rate on hogs would apply in to those markets.

Mr. DAWES:

Q. Well, what is the radius, it is the same radius to all stations, isn't it?

A. Yes, about 75 miles each way. The entire radius would be 150 miles.

Mr. SEVERANCE: That is the diameter?

A. Yes sir, the diameter.

Q. The radius would be half of that?

A. Yes sir, pardon me.

(The statement referred to by the witness as accompanied by a map, was marked "Tomlinson Exhibit No. 9, C. P. D." and the map referred to was marked, "Tomlinson Map-Exhibit No. 9, C. P. D." and both were filed as part of the testimony herein.)

Mr. COWAN:

Q. Have you a comparison of the rates to St. Paul, and from the same district to Chicago?

A. Yes, sir, I have a comparison of the actual class rates and the rates on live stock between St. Paul and Chicago, compared with the sched-

The 23½ cent rate on cattle and hogs and the 25 cent rate on sheep to Chicago applies generally from the western half of Iowa and Missouri; the exact extent of territory east of Omaha, for example, from which these blanket rates apply is:

Roads.	Distance in miles east of Omaha from which rate applies.		
	On cattle.	On hogs.	On sheep.
Via Illinois Central R. R.	175	184	161
Via C. R. I. & P. R. R.	100	164	100
Via C. M. & St. P. Ry.	116	150	120
Via C. & N. W. Ry.	140	152	152
Via C. B. & Q. R. R.	107	166	129
Average distance	126	163	136

These groups do not apply as far east of Kansas City as east of Omaha, nor do the St. Paul rates of 25 cents on cattle and 27 cents on hogs and sheep apply as far south or east of St. Paul as in the case of Omaha.

Via the Chicago Great Western Railway the 23½ cent rate applies on cattle 139 miles and on hogs 244 miles, and the 25 cent rate on sheep applies 183 miles, east of Kansas City.

In the territory south of St. Paul, via the Chicago Great Western, the 25 cent rate on cattle applies 58 miles, the 27 cent rate on hogs 36 miles and the 27 cent rate on sheep 62 miles south of St. Paul.

2409 ule of the Illinois & Iowa Commission for the same distance.

Mr. SEVERANCE: I object to that as immaterial.

Mr. DAWES: I object to that.

The COURT: What is the objection?

Mr. SEVERANCE: The objection is, there is no such controversy in this case, and it does not make any difference whether the rates up there compare with the Illinois and Iowa Distance tariffs or not, the conditions are entirely dissimilar up there, and there is no basis for comparison.

Mr. DAWES: They are both State rates, and we are investigating interstate rates.

The COURT: Let them go in.

Mr. SEVERANCE: They go in subject to our objection as incompetent and immaterial.

The WITNESS: The statement shows that on the class rates, that is the merchandise classes, the first four classes and the car load classes, in all being 10 classes, the rates very closely approximate each other. That is on first class, from Chicago to St. Paul, it is 50 cents. The Illinois Distance rates for 400 miles would be 60.16 cents. Under the Iowa distance tariff for 400 miles, it would be 61 cents. Take Class A——

Mr. DAWES: What do we care about those? Pardon me again your Honor, the difference in classes?

2410 Mr. SEVERANCE: These are in the wrong direction.

The WITNESS: If you will wait until I get through, I think you will see the pertinence in the comparison.

The COURT: All right, go ahead.

A. Class A between Chicago and St. Paul, the published rate is 25 cents; the Illinois Distance Rate for 400 miles, would be 24.81 cents; the Iowa Distance rates for 400 miles, would be 27.5. On cattle the rate between Chicago and St. Paul, the published rate is 25 cents; the Illinois Distance rates for 400 miles is 16.5 cents; the Iowa Distance rate for 400 miles is 22.89 cents. On hogs the rate between Chicago and St. Paul is 27 cents; the Illinois Distance rate for 400 miles is 20 cents; and the Iowa Distance rate for 400 miles is 21 cents.

This shows that while the rates between Chicago and St. Paul for similar distances closely approximate the rates in the Iowa and Illinois classification on all the classes, yet they are vastly dissimilar on live stock in that the rates from St. Paul are very much higher than the rates for similar distances shown in the Iowa and Illinois schedule of rates.

Mr. SEVERANCE: Discriminate? I don't see what you mean by that in that connection.

Mr. COWAN: I didn't understand he used the word "discriminate."

Mr. DAWES: Your Honor will remember that the Supreme

2411 Court has held expressly in the case of Smith against Ames that for the purpose of determining what an interstate rate should be, you cannot compare it with a State rate. Now, these com-

parisons are just exactly the comparisons which are inhibited by that decision, and it does not seem to me that we ought to incumber the record with it.

The COURT: I think we will let it stay in and all of this will come up on argument. Is there anything else, Mr. Cowan?

Mr. COWAN: File that as an exhibit, Mr. Tomlinson.

A. Yes sir.

(The statement referred to by the witness was filed as part of his testimony, marked "Tomlinson, Exhibit No. 12, C. P. D.")

2410*a* Below is a comparison of the actual class and live stock rates between St. Paul and Chicago with the schedules of the Illinois and Iowa Commissioners for 400 miles.

Between—	Merchandise. (Class.)				Carloads. (Class.)							
	1st.	2nd.	3rd.	4th.	5th.	A.	B.	C.	D.	E.	Ctl.	Hgs.
Chicago & St. Paul.....	60	50	40	25	20	25	20	17	14	13	25	27
Illinois distance rates for 400 miles.....	60.16	49.82	39.48	31.02	20.12	24.81	18.10	15.37	12.55	11.30	16.5	20
Iowa distance rates for 400 miles.....	61	45	35	30	25	27.5	22.5	20	17.5	16	22.89	21

Tomlinson Ex. #12, C. P. D.

Q. What other rate comparisons have you Mr. Tomlinson?

A. I have a statement showing the rates on cattle, car loads to Chicago, Illinois, from stations on the Illinois Central Railroad in Iowa, compared with rates on cattle for similar distances as follows:

Mr. SEVERANCE: Similar distances, where?

A. Similar distances, as follows. I will explain that.

Mr. SEVERANCE: But state where so we can make objection.

Mr. COWAN: That is what he is going to do, as follows, then go on to state what it is.

A. The rates on cattle to Chicago from Illinois Central
2412 *Central* stations in Illinois.

The COURT: Go ahead, you can object—I will assume you have objected to it.

Mr. SEVERANCE: Then this goes in under the assumption that we have objected to it as incompetent and immaterial.

The COURT: Yes.

The WITNESS: Schedule of rates of the Railroad Commission of Iowa on cattle for the same distances; schedule of rates of the Illi-

nois Commission for the same distances, and agreed rates on cattle applicable in Central Freight Association territory. But this shows for example, the rate, take from Dyersville, Iowa, on the Illinois Central, 212 miles from Chicago. The rate on cattle is 18 cents. From Edgewood, Illinois, 214 miles from Chicago, the rate is 12.6 cents. The schedule rate of the Railroad Commission of Iowa for the same distance would be 16.47 cents, and the schedule of the Illinois Commission would be 12.6 cents; and the agreed rates applicable in Central Freight Association territory is 13 cents.

Mr. SEVERANCE: There is no need of reading them all, if he has got fifty of them, there is no need of reading them.

A. I was just reading one to give you a fair sample.

Also on this sheet is a statement of the rates on hogs to Chicago from Illinois Central stations in Iowa compared with the
2413 rates from Illinois in to Chicago on the Illinois Central and with the schedule rates of the Illinois and Iowa Commission and agreed rates in Central Freight Association territory. I will take Ackley. The rate in here is 23 cents. For a similar distance out in Illinois, it is 18.4 cents. The schedule of the Iowa Commission for the same distance would be 19.13 cents, and under the Illinois Commission, it would be 18.4 cents; and the agreed rate for Central Freight Association territory would be 15 cents.

This takes the line of the Illinois Central Railroad from Dubuque running directly west to Sioux City and the comparison is, with the main line of the Illinois Central Railroad running south from Chicago. The rates published by the Illinois Central Railroad in Illinois are practically the schedule of the Railroad & Warehouse Commission.

The COURT: We will take a recess until two o'clock.

Whereupon a recess was taken until 2:00 o'clock p. m. of the same day Friday, October 6, 1905.

2414 FRIDAY, *October* 6, 1905—2 o'clock p. m.

Court met pursuant to adjournment.

Counsel present same as before.

Whereupon T. W. TOMLINSON, resumed the stand, for further Direct Examination by Mr. Cowan, and testified as follows:

Q. Mr. Tomlinson, has your attention been called to a correction with respect to the rate from Cheyenne to Omaha?

A. I stated this morning that the rate from Cheyenne, Wyoming, to Omaha, was 29 cents, and 49 cents to Chicago. I desire to correct that statement by stating that the rate to Chicago is 48 cents, instead of 49 cents, making a difference between the two rates of 19 cents, instead of 20 cents, as I stated this morning.

Q. You assume that from what Mr. Crosby has said to you, that 48 cents is correct?

A. Yes, sir.

Q. Well, whatever the tariff shows, of course, would be right. When you were introducing and explaining statistical data with respect to the comparison of rates on the Illinois Central railroad, I will ask you whether you have similar comparisons for the
2415 Chicago & Northwestern and the Chicago Great Western, and also whether you have sundry comparisons of rates from points east of the Missouri river to Chicago?

A. Yes, I have.

Q. Now, just please introduce each one of the exhibits that you have, with as short an explanation as you can give, but which will yet indicate somewhat of what the exhibit shows.

A. This is a statement of the rates on cattle in carloads to Chicago, Illinois, from stations on the Northwestern railway in Iowa, and from stations on that line and the Chicago, St. Paul, Minneapolis & Omaha Railway, in Wisconsin and Minnesota, with the distance to Chicago shown, compared with rates on cattle for similar distances, the compared rates being schedule rates of the Railroad Commission of Iowa, and the Railroad Commission of Illinois, the rates applicable in Central Traffic Association territory, the rates on cattle to Omaha, from Kansas and Colorado points on the C. R. I. & P. and the rates on cattle to Kansas City from Kansas and Colorado points on the Union Pacific.

Mr. DAWES: Now, if your Honor please, if your Honor has given due consideration to the objection which was made this morning to this testimony, I have nothing further to say; but it seems to me that it is so far outside of the progress of this investigation,
2416 and so far inadmissible, that I feel it my duty to again call your Honor's attention to the character of the comparison. In the first place, he is introducing exhibits and endeavoring to make a comparison between these voluntary rates made by the Railroad companies, and the Illinois Distance Tariff. I called your Honor's attention this morning to the fact that the Supreme court has held in the case of Smith *versus* Ames, that there can be no

comparison between a State rate and an Interstate rate, and I think counsel for the complainant will admit that.

Mr. COWAN: I don't admit that. I admit that the Supreme court said that they could not take into consideration the earnings from the state rates and interstate rates in order to determine the reasonableness of a rate.

The COURT: The question in this case is a question of reasonableness.

Mr. DAWES: They held this; that, in order to determine whether a fair profit was made, there should be no comparison between—well, you remember that.

The COURT: Yes, I understand that.

Mr. DAWES: That is the point I want to urge right now. In order to make these comparisons effective, he must assume, and your Honor must assume, that the Illinois Distance Tariff is a tariff of reasonable rates. Now, our statute does not make that so.
2417 It makes them *prima facie* evidence of their reasonableness, and that alone.

Each rate stands, therefore, not only upon the suggestion of the Commission itself, but upon its merits. Now, your Honor will force us, if this comparison is introduced, to discuss the reasonable character of every rate referred to; that is, if we deem it advisable so to do and to take your Honor's time for that purpose. Then we will have to discuss the reasonable character of the rates which he takes as a basis of comparison.

It seems to me that it is leading your Honor into a realm which ought not to be invaded by this discussion. What light can your Honor obtain from this comparison, unless your Honor assumes that the Illinois Distance Tariff is a tariff of reasonable rates? We are not obliged to admit that in this or any other tribunal.

The COURT: There will be no harm in letting it go in, the same as a great many other matters have gone in.

Mr. SEVERANCE: Will your Honor wait until we can call your attention to that decision?

The COURT: I have read that.

Mr. DAWES: I do not wish to take any further time.

The COURT: I am not passing upon the competency of this evidence. Let it go into the record and these gentlemen may want to use it for something. I have not held it to be competent.
2418 Mr. DAWES: I don't think they ought to have the right to use it.

Mr. SEVERANCE: They cannot use it, it is incompetent.

The COURT: Well, put it in the record.

Mr. COWAN: Please file that statement as a part of your evidence.

Mr. LYNDE:

Q. Have you a copy of that?

A. No, sir. Do you wish me to make any comment on this?

The COURT: He just said to file it.

Mr. COWAN:

Q. Have you a further comparison of rates of the Chicago Great Western?

A. I have a further comparison of rates on hogs from stations on the Chicago & Northwestern Railway in Iowa and in Wisconsin and Minnesota, compared with the schedules that I have referred to, and compared, also with the rates of the Missouri Pacific Railway from Kansas and Colorado points to Kansas City.

I have also a comparison of rates on cattle in carloads to Chicago, Illinois, from stations on the Chicago Great Western Railway, compared with the rates of the Commissions I have referred to, and the agreed rates in the Central Freight Association territory; also with the rates of the Northern Pacific Railway to St. Paul, and the Atchison, Topeka & Santa Fe Railway to Kansas City.

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2419 I have also a statement of rates on hogs to Chicago, Illinois, from stations on the Chicago Great Western, compared with the schedules already referred to and with the agreed rates in Central Freight Association territory.

Mr. SEVERANCE: I desire to object to that, as incompetent and immaterial.

The COURT: Let them go in the same as the others.

Mr. DAWES:

Q. May I ask what you mean by agreed rates?

A. Rates published as applicable in the Central Freight Association territory.

Q. Well, do you think you should use the word "agreed"?

A. Well, it is probably unnecessary to use the word agreed, but they are the rates prevailing in that territory, according to the distance schedule issued by all the interested lines. In some cases the rates in the Central Rate Association territory are less than those agreed rates.

These agreed rates apply as a maximum, and it is a sort of a distance tariff authorized in the Central Freight Association territory, but applied as a maximum. It is, however, closely conformed to.

I have also a statement of the rates on hogs to St. Paul from stations on the Chicago Great Western Railway in Minnesota and Iowa, compared with rates on hogs to Chicago from equally
2420 distant points in Illinois, Iowa and Minnesota.

Mr. SEVERANCE: I object to that, specifically, on the ground that it already appears that the rates on the Chicago Great Western in the state of Minnesota, to St. Paul, were not made by the Railroad Company, but were made under the direction of the State Railroad & Warehouse Commission of that state, and therefore they can form no basis for a comparison whatever.

The COURT: Let it go in, subject to the objection.

The WITNESS: A statement of rates on cattle to South St. Paul from stations on the Chicago Great Western in Minnesota and Iowa, compared with rates on cattle to Chicago from equally distant points in Illinois, Iowa and Minnesota.

Mr. SEVERANCE: The same objection, it is incompetent, irrelevant and immaterial.

The COURT: It is the same kind of a document as the last one, and it may go in subject to objection.

The WITNESS: A statement of rates from various points in the territory east of the Missouri river, said points being located in Iowa and Missouri, and from some Minnesota and Wisconsin points, all rates being to Chicago, and showing the various changes in the rates since 1888 down to the present time.

2421 This statement shows that from the Iowa and Missouri points shown there has been no change in those rates in the past fifteen years, except that the rate on hogs from western Missouri

and Iowa points was advanced December 1st, 1894, from 22 cents to 23½ cents.

Mr. COWAN:

Q. Have you made any further comparison of rates that you have not given?

A. No, sir.

Mr. SEVERANCE:

Q. Are these rates still in force? You say they were in force January 1, 1903. Are they still in force?

A. Yes.

Q. These are all existing rates?

A. Yes. There might be a change here and there, but I did not detect any, and I checked the statement.

Mr. COWAN:

Q. Have you any statement relative to the shipments of dressed meat, the increase or decrease in the proportionate amount of dressed meat shipped from the Missouri river to Chicago or via the Chicago gate-way?

A. No, sir, I have no statement showing the increase or decrease, the increase or decrease in fresh meat shipments from those western points, except the statement published in the "Monthly Summary of Commerce and Finance of the United States," published
2422 by the department of Commerce and Labor, at page 229, which shows that the receipts at Chicago for the year 1903 of beef, canned meats, cured meats, dressed beef, dressed hogs, hides, lard and pork, amounted to 287,906,854 pounds. For 1904 the receipts were 348,376,515. For 1905 the receipts were 524,291,349 pounds.

Q. Shipped from where to where?

A. Those were receipts at Chicago, from all points.

Q. Now, from what points does Chicago receive such shipments?

A. From all western packing points.

Q. You say you have no further data prepared with respect to the matter of rates?

A. No, sir.

Q. Have you any further data prepared with respect to the matters pertaining to the volume and direction of the traffic?

A. Do you refer particularly to live stock?

Q. Live stock, or the packing house products and dressed meat?

A. Well, the direction of the bulk of fresh meat and packing house product manufactured on the Missouri river, and that manufactured in interior Iowa, is east bound across the Mississippi river. I have stated that I think substantially 75 per cent. of it went east bound.

The movement of live stock is generally east bound with the exception of the movement west bound into Missouri river points, and the movement north bound or perhaps west bound into St.

Paul or interior Iowa points. The general direction and
2423 the natural movement, according to my opinion, would be east bound for live stock, because the point of consumption is in the east.

Q. And the production in the west?

A. Yes.

Q. How is it in regard to the movement of traffic into Chicago, in any movement east bound into Chicago?

A. The movement of live stock east bound—West bound into Chicago?

Q. West bound, I mean.

A. From Eastern states that is very slight. Probably it would not exceed over two per cent. of the total receipts, whereas the movement west bound into the Missouri river markets, for example, Kansas City, St. Joseph and South Omaha, would approximate for the past five or six years, from 25 to 30 per cent. of the total receipts at those markets, varying, of course, according to the year.

Q. How is the rate adjustment on live stock, packing house products and dressed meats from Chicago east bound?

A. The rate on cattle from Chicago to New York is 28 cents, on fresh meats 45 cents. The rate on hogs is 30 cents, and the rate on packing house products 30 cents, and on cured meats in bulk, 35 cents. Substantially the same differences obtain to all other eastern points, as they are generally based on New York.

Q. Well, now, take the rates on live stock from points 50 or 75 miles east of Chicago. Are those rates the same to New
2424 York and Pittsburg and Buffalo, or do the rates scale down as you go eastward?

A. The rates in the territory east of Chicago are adjusted upon a scale so that if you go 50 miles east of Chicago, the rate to New York is less than from Chicago to New York. The rates from, say, Indianapolis territory to New York is 96 per cent. of the rates from Chicago.

All the territory in the Central Freight Association, all the points in the Central Freight Association, (which is the territory in Indiana, Ohio and Michigan), are adjusted on a percentage scale and the rates generally increase with distance.

Mr. Dawes:

Q. Let me ask you right there, where do the Indiana and Ohio cattle, if there are any, go?

The Court:

Q. And Michigan?

A. There are very few cattle from Michigan that come into the Chicago market.

Mr. Dawes:

Q. Can you tell what those 2 per cent. that you spoke of, what that amounts to in numbers, with reference to the whole product of those states?

A. No, I could not say.

Q. Have you any figures on Indiana and Iowa, or can you give us a rough idea, generally speaking, of the number of cattle raised there, and hogs, I don't mean Iowa but Indiana and Ohio?

2425 It is given in the Price Current, that is the Government report of the number of live stock in each state. Of course that is a government estimate and accepted by some as correct, while others do not.

Q. Is the movement of cattle from those states east, to packing houses in the east, New York or Boston?

A. Yes.

Q. Or west to Chicago?

A. Nearly always east.

Q. Well, why?

A. Well, because the rate adjustment at Chicago is such that the shipper can with better—not with better advantage, but he has the option of shipping eastwardly, or coming in here on a parity, about a parity.

Q. Is there any difference between the situation east of here in those states, and in this 23½ cent belt?

A. Yes, there is a very material difference.

Q. Well, I would like to know what that is.

A. The rate east of Chicago is 41 cents on fresh meat, as against 28 cents on the cattle. Now, these rates closely approximate a commercial parity, whereas, in the Missouri river territory, the rates, for example, from the Missouri river are 18½ and 20, while from east of the Missouri river they are generally 23½ on cattle and the same on hogs.

Q. East of here, in Ohio, the rates are very much less

2426 on cattle to New York?

A. Yes, sir.

Q. How much is it from Chicago—from there back to Chicago, from those points westward?

A. Their rates are adjusted on the Central Freight Association scale, and—well, take the rate from Chicago to Indianapolis, it is about 10 or 11 cents.

Q. What is it from Indianapolis to Chicago?

A. About the same. By reason of the adjustment east of Chicago, and by reason of the fact that the packer on his product would have to pay a much higher rate to market the product in the east, therefore, he is not in the position of paying relatively as much for the live stock as would the man in Buffalo or New York.

Assume that the rate from an Indiana point was 26 cents to New York, and 11 cents in here. The shipper of live stock could ship his live stock to New York for 26 cents. If he came in here he would pay 11 cents and 45 cents on the product. Now, the difference between the 28 cents and the 45 cents measurably approximates the difference in shrinkage and other expenses.

Mr. SEVERANCE: You say the Indianapolis rate to New York is 96 per cent. of the Chicago rate?

A. Yes, sir.

Q. That would discriminate against the packer in Indianapolis, then, in favor of Chicago?

2427 A. How do you mean?

Q. You have been giving us Distance Tariff tables here figured on those distances, and it would discriminate very largely against Indianapolis in favor of Chicago, if they would have to pay 96 per cent. of the rate, isn't that so?

A. I don't think so, no, sir.

Q. You don't think there can be a discrimination in favor of Chicago in any way, do you?

A. Yes, I do.

Q. What part of the distance from New York is the distance from Indianapolis to Chicago?

A. Very little difference between Chicago and Indianapolis. Via the Pennsylvania lines I should say that it was possibly 100 miles—no, it is 180 miles less than from Chicago.

Q. About one-fifth of the distance, 20 per cent. of the distance, but the difference in the tariff is 4 per cent.?

A. Yes. Still, you take a direct line operating from Indianapolis compared with the direct lines to Chicago, the difference would be—the Air Line difference—the difference would not be as great as is represented, by 177 miles.

Mr. LYNDE:

Q. What does this 2 per cent. of the total receipts amount to in numbers?

A. I said two to three per cent., about 6,000 cars, in my estimation. I am referring to live stock strictly east of Chicago,

2428 not the stuff, for example, on the C. & E. I., a north and south line running in there.

Q. That comes from Indiana, Ohio and Michigan?

A. Eastern Indiana, Ohio or Michigan.

Mr. COWAN: Are you all through, gentlemen? I would like to get through with Mr. Tomlinson as quick as I can, but desire to accommodate you with all the questions you want.

Q. What was the method used to establish the relative rates on live stock and packing house products from Chicago and other Central Traffic Association territory to the markets in the east, New York, Boston, Pittsburg, Buffalo and other points?

Mr. SEVERANCE: That is objected to, unless it appears that he made the rate.

The COURT: I would like to hear that question. Will you read it, Mr. Reporter?

(The question was then read.)

The COURT: Used by whom?

Mr. COWAN: I mean by the people who did it, who put in the rate. Nobody else could do it except the railroads, that I know of. By some sort of method it must have been done and they must have done it.

The COURT:

Q. Do you know the method used?

A. I know the basis they desired to establish, and which
2429 they did establish, yes, sir.

Q. How do you know that?

A. From the fact that I was with the Central Traffic Association at the time they arbitrated this question of the relation of these rates on live stock and its product.

Mr. SEVERANCE: Well, then,——

The COURT: Does that apply to rates now in existence?

Mr. COWAN: Yes.

The COURT:

Q. Do you know how those rates were established, of your own knowledge? Not what anybody told you?

Mr. COWAN:

Q. The same rates have been in force for a great many years, haven't they?

A. Yes, the 45 cent rate on cattle, with a few exceptions.

Q. You mean on fresh meat?

A. On fresh meat. The rates have been in effect for a large number of years.

The COURT: Well, how do you think that is helpful, Mr. Cowan?

Mr. COWAN: I am just showing that it was the concensus of the judgment of the railroads who established those rates.

Mr. SEVERANCE: They are not these defendants.

Mr. COWAN: No matter whether they are these defendants
2430 or not. You cannot determine what is a reasonable rate or what a reasonable relation of rates is, except by comparison. There is not a railroad writer, there is not a writer on railroad economics, in the whole country that has not laid that down as being a fact.

Every witness who has testified before the Interstate Commerce Commission testified to that, and Mr. Stickney's evidence is here, which I will read, in which he states that he knows of no method except by comparison, to determine what a reasonable rate is.

Now, what comparison? Comparison with similar rates established for the same character of traffic in other parts of the country as well as in the same locality. A comparison with rates on other commodities. There is absolutely no limit to the comparison. There may be some limit to the similitude but otherwise there is none.

Out of Chicago to the east, on this large volume of traffic, taking in a part, indeed, of the same lines that are here, probably the Illinois Central,—but whether it takes in that road or not is immaterial, but, to establish that is a matter of information. It is a matter that tends to determine whether that relation ought to exist or not.

The longer that has remained established, the more probable it is that it is the correct relation of rates to establish commercially.

2431 How are you ever to determine what a reasonable rate is, or what a reasonable relation of rates is, except you take into consideration just such circumstances?

The COURT: The Supreme court has determined the rule as to reasonable rates, what that means.

Mr. COWAN: When you make an examination of that decision and read it closely, you will find that it is very far from being determined, if the Court will permit me to make the remark. I undertake to say that the most reliable method you could get to determine what a rate ought to be, is by comparison with other rates. Get as nearly similar circumstances as you can, in order to determine what a reasonable rate is, you must resort to comparison, for there is no standard of reasonableness and no standard of relative reasonableness anywhere established by any court or any statute or anywhere, that has ever been established by any traffic association or any railroad itself, or any combination of railroads.

That being so, I offer in evidence the fact that there has been established for a great many years a certain relation of rates between here and New York on these commodities where they move in large volume. Then I propose to show the method by which that was determined, how it was arrived at, for the purpose of showing that that ought to be the fair commercial relations of those rates in

2432 order to put parties who deal in the product of live stock, and in the live stock, on a commercial parity in the markets of consumption.

Mr. SEVERANCE: It pains me very much to read anything from the Supreme court of the United States that in any way differs from my learned friend's view of the law, but I would like to read a few lines from this decision: "The question is asked, are not the people of Nebraska entitled to as cheap rates as the people of Iowa? Of course, relatively they are. That is, the roads may not discriminate against the people of any one state, but they are not necessarily bound to give absolutely the same rates to the people of all the states, for the kind and amount of business and the cost thereof are factors which determine largely the question of rates, and these vary in the several states. The volume of business in one state may be greater per mile, while the cost of construction and of maintenance is less; hence, to enforce the same rates in both states might result in great injustice in one, while it would only be reasonable and fair in another. Comparisons, therefore, between the rates of two states, are of little value, unless all the elements that enter into the problem are presented. It may be true, as testified by some of the witnesses, that the existing local rates in Nebraska are 40 per cent. higher than similar rates in the state of Iowa. But it is also true

2433 that the mileage earnings in Iowa are greater than in Nebraska. In Iowa there are 230 people to each mile of railroad, while in Nebraska there are but 190; and, as a general rule, the more people there are the more business there is. Hence a mere difference between the rates in two states is of comparatively little significance." (64 Fed. 165.) In these views we concur, and it is

unnecessary to add anything to what was said by the circuit court on this point."

Now, has counsel offered to lay any foundation to this? Has he offered any testimony in that regard? Don't your Honor know, as a matter of fact, that there could not be a comparison between the rates which are in effect from the Missouri river and which are proper to be charged, and the rates along these great trunk lines from here to New York City? The products of the two parts of the country are different; the volume of traffic is different; the cost of the line is different.

Everything in the world that enters into this, the question of the cost of the service, and everything else, differs, one from the other. Before such testimony is admissible every element must be shown, as the Supreme court says. Now, if your Honor please, that is the view of the Supreme court.

2434 The COURT: The question here is a different one than in that case, because it is a question of discrimination.

Mr. COWAN: A question of the relative rates.

The COURT: If you go into this, they would have a right to prove that it was not true. I think that that would raise a false issue and therefore I sustain the objection.

Mr. COWAN: That is to say that the—what is the Court's ruling?

The COURT: Objection sustained.

Mr. COWAN: Now, what part of the testimony does that exclude? Does it exclude the fact that the relation of these rates——

The COURT: It sustains the objection to this question. That is what it excludes.

Mr. COWAN: In other words, your Honor excludes the evidence as to the manner in which the rate was established? That was what my question was.

The COURT: I simply sustain the objection to the question. You can figure that out and find out what that amounts to.

Mr. COWAN: That was my understanding of the question.

Q. What are the proper factors by which to determine the proper relation of rates between the two commodities, dressed meat and packing house products on the one hand, and live stock on the

2435 other.

Mr. SEVERANCE: The same objection would apply to that.

The COURT: He is an expert. You gentlemen, on your side have had your witnesses give their notion of how to fix a rate, and he has a right to give his.

Mr. SEVERANCE: I object to it, as incompetent.

The COURT: Certainly, we will take them all for what they are worth. The objection is overruled. Read the question, Mr. Reporter.

(The pending question was then read.)

A. The value of the service and the cost of performing it. In the value of the service comes in, of course, the question of the relative value of the commodities. The value of the service is the larger factor to be considered.

Mr. COWAN:

Q. You have explained this morning in your testimony matters pertaining to the placing of the shipper of the live stock and the product on a relative commercial parity. To what extent should that operate as a factor, and why?

Mr. DAWES: I think that, your Honor, is a question of law, what sort of parity should exist between persons and localities. It is a matter for the judgment of the Court after hearing the facts in the case.

The COURT: I have permitted him to answer the last question. Now, is there anything else that you want to add to that, if so,
2436 go ahead.

Mr. SEVERANCE: What is the ruling on this question?

The COURT: Well, I will sustain the objection, but I will let him finish his answer to the other question.

Mr. SEVERANCE: I thought he had.

The WITNESS: In the value of the service, of course, is comprehended the relation of the rates so that a shipper of live stock can take advantage of the widest competition.

Unless rates are adjusted so that a live stock shipper is able to take advantage of this widest competition, he is, in reality, at the mercy of the near by point and the slaughterers at that point.

To put the matter more explicity, I will refer once more to the Cedar Rapids situation. An owner of live stock who might want to ship from Cedar Rapids to Chicago, would have to pay on cattle, 21 cents. The packer there, if he slaughtered the cattle—bought and slaughtered the cattle—could market his product at Chicago at 13½ cents. The product would be 70 per cent. of the live weight of the animal.

Under this adjustment, if the owner of the live stock was to conserve his best interests, and if conditions were ideal, he would be compelled to sell to that Cedar Rapids man, simply because
2437 the Cedar Rapids man, by reason of the advantage of the freight rate, could afford to pay him more than he could get by shipping, for example, on to Chicago or Milwaukee.

The shipper does not have that advantage, because he does not himself slaughter the stock. There is an advantage to the slaughterer and the live stock man cannot avail of that except through the medium of the slaughterer, and the slaughterer generally pays him just enough to secure his traffic.

The result is that the live stock man, instead of having the benefit of a wide competition, has only a restricted market. That applies with equal force to all other markets west of Chicago.

Mr. DAWES:

Q. You selected Cedar Rapids. They don't slaughter any cattle at Cedar Rapids, do they?

A. Some few, a little. I selected that as representative of my proposition.

Q. If the slaughterer has such an advantage, why don't they slaughter them there?

A. I presume Mr. Sinclaire could answer that better than I can. The situation is there, and the advantage is present. It is waiting for some one to avail himself of it.

Q. And it is an obvious advantage, as you have described it?

A. Undoubtedly it is an obvious advantage.

2438 Q. But they do not consider it sufficient to avail themselves of it?

A. Well, apply the comparison to hogs. I selected cattle——

Q. I just wanted to ask you why that advantage was not availed of, if it was so obvious.

Mr. SEVERANCE: If he is going to talk about Cedar Rapids, he had better talk about some point outside of that from which they ship cattle.

The COURT:

Q. Is there anything in the relation between live stock and the product thereof that should require that they should be alike, in addition to what you have stated?

In other words, is there anything in the suggestion of Governor Fifer in his opinion, that there seems to be some mysterious relation there that requires that the rates should be the same?

A. I think they ought not to be the same. I think the rates on the product ought to be much higher than on the live stock.

Mr. SEVERANCE: Nobody agrees with the Commission.

The COURT:

Q. What is there in the relation that requires that they want to be higher than the other?

A. Simply in order to afford the live stock man the benefit of the widest competition.

2439 Q. That would come under the head of discrimination, necessarily, why does it?

A. Why does it come under the head of discrimination?

Q. Yes, simply because one is raw material and the other is finished product?

A. Because they are both competitive in the markets of final consumption, and if they are competitive, rates should ideally be so adjusted that the shipper of live stock could avail himself of that competition.

If they are so adjusted with the rates on the product as they are today, between the Missouri river and Chicago, so that they are less than on the live article, he has not the competition to which he is entitled, but he is restricted to the market nearest to him.

Q. What competition is he entitled to?

A. He is entitled to the competition arising from the consumptive demand.

Q. The shipper would have all the rates very low, then, and that

would give him more competition, but what is he entitled to without discrimination?

A. He is entitled—based on the cost of the service—he is certainly entitled to that, to have the rates—if the rates were made on the cost of the service.

Mr. SEVERANCE: I cannot hear a word you say.

The WITNESS: Based on the cost of the service, if rates
2440 were so made, he would be entitled, he would be entitled to a less rate on the live stock than on the product.

But that is a minor factor in the entire consideration of rates, the most important factor being the value of the service, and in that I include the factor of giving him as wide a competition for his products as is possible, and he can only have that competition by putting him on a commercial parity with the man who slaughters his product and that commercial parity is represented in the difference between, say the rates on live stock at 100 per cent. and the rates on beef, 175 per cent. thereof.

Mr. COWAN:

Q. Now, if the rate between here and New York, Buffalo and Pittsburg, was adjusted so that it was lower on the dressed meat and packing house product, or as low as it is on the live stock, would the live stock be shipped at all?

Mr. SEVERANCE: I object to that, as immaterial.

The COURT: Let him answer.

A. It is doubtful whether there would be any live stock shipped east of Chicago, from Chicago to Eastern markets, and certainly not in the present volume, if the rates on the product were less than on the live stock.

Mr. COWAN:

Q. Why?

A. The advantage would be so patent that no live stock
2441 shipper could operate.

Put it in this way: Take cattle, for example, they dress 70 per cent. That is, the product would be 70 per cent. of the live weight of the cattle. Seventy per cent. of a 1,000 pound steer would be 700 pounds. If one could ship 700 pounds at 28 cents, while the live stock man had to pay 28 cents on a thousand pounds in addition to the shrinkage, and so forth, it would be very plain that he could not operate.

As it is now, Chicago ships east bound, approximately 40 per cent.—it does not ship east bound—but ships 40 per cent. of her cattle either for feeders or as fat cattle ready for consumption. Of that 40 per cent. probably 200,000 are feeders; the balance are fat cattle ready for slaughter.

If rates were adjusted east of Chicago so that the rate on the product was less than on the live article, it would practically wipe out the shipment of cattle east bound for slaughter. There might be a few shipped for export, but they would move under a great dis-

advantage compared with the packer at Chicago. In that way, if rates were adjusted east of Chicago as they are west of Chicago, the shipper in here would not have the benefit of the export buyers or of the independent eastern buyers, because the advantage which would accrue to the local packer would be so much that no shipper
2442 could operate against it. That is true also on hogs.

Explaining further, Chicago ships a much larger percentage of hogs east bound than any other market, and, also, a much larger percentage of her fat cattle. She is able to do that simply and solely because of the adjustment of these freight rates.

Kansas City ships a large number of cattle and so does Omaha, but the bulk of them are as feeders, while Chicago is not a large feeder market.

Chicago received last year, to be exact, 3,259,185 head of cattle. She shipped 1,326,332 head of cattle. Of that percentage, probably,—of the shipments, probably not to exceed 200,000 to 250,000 head were feeders. The balance were fat cattle ready for slaughter.

Mr. LYNDE:

Q. Is that distributed at all in their report? Is there anything to show that there was that quantity of feeders shipped out?

A. It is not shown in the book.

Q. Where did you get that information?

A. It is published by the Drovers' Journal out at the Yards, and generally known by those who are in touch with the situation, that that is about the number.

Mr. LYNDE: I was looking for it, but I did not find it.

Mr. COWAN:

Q. Does the rate adjustment relatively between packing
2443 house products on the one hand and live stock on the other, which gives a lower rate to the packing house and the dressed meat, tend to monopolize the business in the hands of the slaughterer who ships the product?

Mr. SEVERANCE: I object to that as asking for a mere conclusion.

The COURT: Let him answer.

The WITNESS: May I answer?

The COURT: Yes.

A. It certainly does localize and monopolize the business.

Mr. DAWES:

Q. What business, the cattle or the beef business?

A. The slaughtering business at any particular point where these conditions may exist.

I wanted to say further on the shipments east of Chicago——

Mr. SEVERANCE: I object to the witness doing anything but answering questions. I think it is fair that he should answer questions.

Mr. DAWES: Ask him a question right there.

The WITNESS: I had not quite finished with my answer.

The COURT: If it is responsive to the question it is all right.

2444 A. It was in relation to the shipment of hogs, I had something to say about the cattle, and I wish to say that the hog shipment received last year was 7,238,746, and there was shipped, 1,626,022. This is a larger percentage, that is the shipments compared with the receipts, a much larger percentage of shipments than is true at any other market, and I ascribe that largely to the adjustment of freight rates.

Mr. DAWES:

Q. The number of buyers on the Chicago market is very large, isn't it?

A. Yes, sir.

Q. How do you say, then, that the condition of things has a tendency to monopolize the market?

A. Simply because the number of buyers on the market are there because of the freight rate adjustment permitting them to operate.

Q. They have always been there, haven't they?

A. Yes, and the rates have always been adjusted here at Chicago on that basis.

Q. They have been in Chicago, which you have said is the greatest market for competition in the country?

A. Yes.

Q. The conditions of competition have not varied very much in the last ten years, have they, in the Chicago market?

A. Not materially.

2445 Q. Then where do you find the evidence of this tendency towards monopoly that you spoke of, if there is this general competition in this market?

A. I say the presence of these buyers, to my mind, must have—the presence of this great number of buyers at Chicago, is accounted for by reason of the fact that the freight rate adjustment east of Chicago is such that the buyer can operate against the packer. That is not true at the other markets.

Q. Can operate against the packer?

A. Yes.

Q. That is, he operates right against this monopoly which you say he creates?

A. You misunderstood the question of Mr. Cowan which I answered. It was that where the rate on the product was less than on the live stock, it tended to monopolize the business at the point where that rate prevailed.

The COURT:

Q. At Missouri river points or at Chicago?

A. At Missouri river points, where the rate on the product outbound prevails. There are not as many buyers at the Missouri river markets, and for that very reason, that they could not operate against the local packer.

Q. Your idea is to get into Chicago where there is more competition?

A. I think they can operate in Chicago, simply because of the freight rate adjustment, yes, sir.

2446 Mr. DAWES:

Q. So you think this monop-ly you have described is just a monop-ly on the Missouri river and not in Chicago, is that right?

The COURT: State what you meant by the answer you gave to Mr. Cowan, is that what you meant?

A. No, I don't wish to be so understood.

Q. Well, what did you mean? I don't quite understand that?

A. I said, in reply to Mr. Cowan's question (or I wish at least to be so understood), that where the rates on the product from any packing center are less than on the live stock, that it tends to monopolize the business of dealing in live stock to the packers at that particular point.

Q. Puts it in the hands of the packers rather than the buyers?

A. Yes, sir.

Mr. SEVERANCE:

Q. Isn't Kansas City the biggest feeder market?

A. Feeders are not slaughtered.

Q. Isn't that so?

A. Kansas City is the biggest feeder market, yes.

Q. Aren't there export buyers at all the Missouri river points?

A. Very few.

Q. Aren't there export buyers at all the Missouri river points?

A. I doubt if you can find very many.

Q. Just answer yes or no, if there are not, you can say
2447 so.

A. The question is hardly susceptible of such an answer. It is rather a difficult question.

Mr. SEVERANCE: Of course it is a very difficult question, so I see, especially so to an expert.

Mr. COWAN: I do not think that those remarks of Mr. Severance are justified.

Mr. SEVERANCE: The idea of characterizing that as a difficult question.

Mr. COWAN: It may be that the witness does not know. Answer what you know, Mr. Tomlinson, in regard to the export buyers on the other markets.

A. I do not——

Mr. SEVERANCE: If he is going to answer my question, I want him to answer it straight.

The COURT: He said he could not.

The WITNESS: There might be a few export buyers at Kansas City or South Omaha, if there are I do not know of them, and I thought I knew the conditions out there.

The purchasers of live stock at those markets, of animals ready for slaughter, such purchases are mostly by the packers themselves, such as "S. & S." for example, or the packers represented there.

There is no appreciable volume of shipments of fat cattle ready for slaughter, east bound, out of the river markets.

Mr. RANSOM:

2448 Q. Where do the export cattle come from then?

Mr. SEVERANCE: Mr. Cusey said there was.

The COURT: Let Mr. Cowan examine the witness.

The WITNESS: Except such stray shipments as might come through from Kansas or Nebraska in sufficient volume to prove an exception to the rule. I don't say there is not any, but I say the volume is not large.

The COURT: All right, I understand that.

Mr. COWAN:

Q. Now, passing from the question of rate adjustment, I will ask you to state whether, in your opinion, the rates from Iowa to Chicago are reasonable or not? I mean the rates we have been discussing, the 23½ cent and other rates on live stock from Iowa points to Chicago?

Mr. SEVERANCE: Objected to, as incompetent.

The COURT: Overruled.

A. I think they are unreasonably high.

Mr. COWAN:

Q. Why?

Mr. DAWES: Do you refer to packing house products or live stock?

Mr. SEVERANCE: Live stock.

The WITNESS: Live stock.

The COURT:

Q. You say for live stock?

A. Yes, sir.

2449 The COURT: Well, now, he asks you why.

The WITNESS: Because, for equal distances in the scale of the Illinois or Iowa commission, they are less.

Mr. SEVERANCE: I move to strike that out, on the ground that it is incompetent evidence under the decision of the Supreme court.

The COURT: Let him answer.

A. Because the average rates prevailing from Kansas points into Kansas City will average up less than the rates from these Iowa points to Chicago.

The COURT:

Q. Well, supposing they are too low, supposing those other rates are all too low?

A. I am starting this as a comparison, and as one of the reasons on which I base my conclusion.

Mr. DAWES: I presume it is proper for the witness to give the

bases of his conclusion in order to enable us to arrive at his meaning, but there has not been the slightest evidence on the subject which he now introduces here, that these rates are lower into Kansas City from Kansas points and western points at similar distances than they are in Iowa. We do not know what that fact is.

The COURT: You can cross-examine him on that afterwards. Let him give his answer. Go ahead with your answer.

2450 The WITNESS: Take the rates in the St. Paul district of 25 cents on cattle and 27 cents on hogs for 400 miles; they are very much higher than the rates in western Iowa for 400 or 500 miles at 23½ cents on cattle and hogs east. 25 cents from Sioux City on cattle.

The live stock business is peculiar in many respects. That is, the live stock traffic is a very advantageous traffic to handle, and is desirable from many standpoints. Live stock coming to Chicago goes to one central point of delivery, and in that respect, it is unlike any other class of traffic that comes into Chicago.

Take, for example, the grain traffic. It might come in here to be held "order to notify," and the roads might have to hold the cars on their tracks until it is sold. It would then have to be reconsigned perhaps to one or another elevator, involving additional handling, or, grain might come in in a dozen cars consigned to as many different elevators in the city of Chicago, and the cutting up of the train, and the delivery of those different cars of grain to the different points, is, of course, an expensive undertaking.

There is no traffic coming into the city of Chicago that is all destined and delivered at the one central point like the live
2451 stock. Live stock is also a desirable class of traffic, for the reason that it is uniform in its volume.

The COURT: Well, we will assume that.

The WITNESS: Uniform in the sense that it brings in about, approximately the same number of cars month after month. In that respect it is different from grain which moves in large volume at one season of the year, and a lesser volume at other seasons.

I have here a statement of shipments of corn, wheat and oats at Chicago, during the year 1904, by months.

Mr. DAWES: I object to it.

The COURT: I don't believe that is necessary now.

The WITNESS: I simply wanted to distinguish them.

The COURT: Well, you have distinguished them, I understand. Now go on and give your reasons.

A. The live stock is loaded by the shipper. The equipment is released promptly for its return loading. The cars can be and are loaded back to an appreciable extent.

Mr. SEVERANCE: Will you look this way when you talk? We cannot hear you over here.

The COURT: You were giving the reasons why the live stock rate was too high.

Mr. COWAN:

Q. Have you a tariff that shows the comparative rates from
2452 Kansas points to Kansas City, and from Kansas and western Missouri points to St. Louis?

A. Yes, I have.

Mr. COWAN: That question seems to have been raised, as to what those comparative rates were, and I would like to have you refer to the tariff and state what those rates are, unless you have a comparison made up from the tariff.

Mr. SEVERANCE: I object to that under the rule laid down by the Supreme Court of the United States.

The COURT: Well, proceed, just put that in.

The WITNESS: I have the rates figured out on those sheets which I have put in.

The COURT: If it is in evidence, counsel can prepare it for his argument.

Mr. COWAN:

Q. It is in evidence, is it?

A. It is in evidence now.

2453 Mr. COWAN:

Q. Mr. Tomlinson, you mentioned something of an exhibit there with respect to grain traffic. There have been some comparisons made here in grain and I will ask you if you have a statement showing the receipts of grain at this market, Chicago, which indicates the time of year and the quantity of the movement of grain from the West into Chicago?

Mr. DAWES: I understood your Honor excluded that testimony. He had a table.

The COURT: Why is that material?

Mr. COWAN: It is material in this way: There are a number of statements filed here where they have compared the grain rates with the live stock rates. There has been testimony with respect to the volume of the traffic of the two. Now, I propose to show from definite statistics something pertaining to the regularity or irregularity of that traffic. One of the circumstances connected with the traffic always, is its regularity—does it move regularly or does it move by spells? Also there has been testimony here that they do not have to move cars empty westbound, to move grain. We have introduced some witnesses to the contrary with respect to the sections where they live. If the evidence I am offering should show that the movement of grain to this market is irregular it
2454 would naturally mean that the cars must go west empty in order to get it, and if it is to be compared with the live stock traffic at all, it is important to compare the regularity and volume of it with the live stock traffic.

The COURT: Well, what have you got there, what did you want to put in?

The WITNESS: A statement showing receipts of grain at the Chicago market, for the months and years shown.

The COURT: Put in the statement, but cut it short.

Mr. COWAN: Yes, I do not want him to explain it any more than I just ask it to be filed as an exhibit to his testimony.

Mr. DAWES: What does it show, the movement of grain, is that it?

The WITNESS: It shows the receipts and shipments of grain at Chicago for the year 1904, by months.

Q. Well, is it from this same territory in question?

A. No sir, it may be all points.

Q. You are going to prove by that that the cars go back empty to get this grain that comes from a different territory?

The COURT: You can argue that later, just put in the figures.

Mr. SEVERANCE: Does your Honor change his ruling? Your Honor excluded that before the recess.

The COURT: If that is true, I have changed it. I said they
2455 could file it.

Mr. SEVERANCE: I did not hear your Honor make the ruling just now, but you did exclude it before the recess.

The COURT: No; the question was not asked before the recess.

Mr. SEVERANCE: That is the same paper.

Mr. COWAN: Mr. Tomlinson was giving his reason for the statement that the rates were not reasonable, and picked that up.

The COURT: Go on.

Mr. SEVERANCE: I did not ask the question in an offensive way, I did not hear the Court's ruling. I heard Mr. Tomlinson put it in and I thought the Court had ruled it out.

The COURT: Go on with the testimony.

Mr. SEVERANCE: It goes in under our objection.

Mr. COWAN: In the course of your investigations have you ascertained what the relative expense of originating and delivering freight is compared with the transportation cost, that is to say the terminal expenses at both ends as compared with the transportation charge.

Mr. DAWES: All freight or this freight?

Mr. COWAN: All freight.

Mr. DAWES: I object to that your Honor, it takes us so far away.

The COURT: Let him put in the figures and see what it is.
2456 Mr. DAWES: We might like to meet that.

The COURT: Put in the figures. You can put in figures too.

Mr. SEVERANCE: I object to that as incompetent and immaterial.

(The statement last above referred to by the witness, as showing the receipts of grain at the Chicago market was filed as a part of his evidence, marked "Tomlinson Exhibit No. 14 C. P. D.".)

2455a TOMLINSON EX. #14. C. P. D.

Statement of Shipments of Wheat, Corn, and Oats at Chicago During the Year 1904 by Months, Showing the Total for the Year and the Average for Each Month:

Month.	Wheat.		Corn.	
	Received. Bu.	Shipped. Bu.	Received. Bu.	Shipped. Bu.
January	1,249,263	911,553	7,483,707	5,180,242
February	1,002,405	926,162	7,304,518	4,150,140
March	1,090,995	1,197,246	5,423,695	3,550,330
April	690,663	998,281	4,498,345	1,937,334
May	613,813	1,130,315	4,758,180	6,326,419
June	902,518	1,569,949	14,163,849	8,477,486
July	966,560	885,363	6,875,657	7,288,873
August	5,224,468	1,886,337	7,551,500	8,238,743
September	4,128,154	1,962,428	14,801,346	12,361,629
October	3,735,615	2,302,733	3,488,400	5,812,582
November	2,685,345	2,753,863	7,436,500	4,190,651
December	2,167,548	1,433,186	16,757,600	7,670,329
Totals	24,457,347	17,957,416	100,543,207	75,184,758
Mo'ly aver.	2,038,100	1,497,293	8,378,600	6,265,400

Month.	Oats.	
	Received. Bu.	Shipped. Bu.
January	5,297,102	3,604,097
February	6,777,796	3,190,336
March	8,931,222	5,774,923
April	4,100,338	3,951,029
May	3,748,650	3,517,333
June	5,375,257	3,414,488
July	4,380,262	3,283,589
August	13,070,386	4,612,789
September	7,419,925	3,071,094
October	5,999,705	5,366,131
November	4,436,421	4,062,088
December	3,486,055	3,456,464
Total	73,023,119	47,303,901
Mo'ly Aver.	6,085,260	3,942,000

(Endorsed:) Filed Oct. 14, 1905. Marshall E. Sampsell, clerk.

The WITNESS: I have, so far as possible, made a very careful analysis of all the operating expenses through the annual reports of the railroads and through the statistics published by the Interstate Commerce Commission, with the result that I find of the total gross operating expenses, exclusive of course, of fixed charges and dividends, just the actual operating expenses that about 20 per cent. of those expenses are incurred as initial or terminal expenses.

Mr. COWAN:

Q. That is with respect to freight traffic?
A. Yes sir.
Q. How are the rates in other parts of the country on packing house products and dressed meats adjusted except as between these points in controversy here, the Missouri River and Chicago?

2457 Mr. SEVERANCE: I object to that as incompetent and immaterial under the decision in Smith against Ames, which I read to your Honor.

The COURT: The objection is overruled.

A. All over the East, in the eastern territory the rates on fresh meats are uniformly higher than on live stock. The rates on packing house products are either the same or a little higher. In the Eastern territory they make rates on fresh meat much higher than on packing house products. In the Western territory with the exception of the rates from these interior Iowa packing points eastwardly and the rates from St. Paul and from Missouri River, and certain packing points in Kansas and Nebraska, the rates on fresh meats are uniformly higher than on the live stock; and so also are the rates on packing house product higher than on live stock. In the Western Classification fresh meats is classified as third.

Mr. SEVERANCE: This is a new question your Honor, he has answered the question. Another question should be put.

Mr. COWAN: The rates depend on classification.

Mr. SEVERANCE: I object to the matter the witness has started in now, because it is not responsive.

The COURT: But remember that every question here that is asked is supposed to be objected to by you on the ground—on the record, you put that in at the beginning so as to save it.

2458 Mr. SEVERANCE: I didn't understand that except as to the question of its not being rebuttal, I didn't understand that the other objections were in.

The COURT: The objection is overruled. Go ahead.

The WITNESS: In the Western Classification, which is the classification adopted by the majority of the Western lines, by all the Western lines, I might say, on interstate traffic, fresh meats is classified as third class, and packing house products are classified as fifth class. On shipments of these commodities to a large number of local points on lines of these various railroads, this classification is very closely adhered to. There are commodity rates, how-

ever, from and to many large distributing centers, but in all instances the rates on fresh meats and packing house products are higher than the rates on live stock, and the rates on fresh meats are always higher than the rates on the packing house products. I know of no exception except those referred to in the first part of my answer.

Mr. DAWES: May I ask you if you know of a car of stuff that moves under that classification anywhere?

A. I could not answer, Mr. Dawes.

Q. Well, do you think there is any movement of traffic under *those* classification?

A. Yes, I think there would be Mr. Dawes.

Q. Well, isn't it so insignificant as not to be worth
2459 considering in this connection fairly?

A. Insofar as shipments are made to any local points on your line, that would apply. Now, the question resolves itself down as to whether from these packing points there are any shipments to interior local points. I think there are. I am satisfied there are.

The COURT: That answers the question.

Mr. COWAN: Now, suppose the classification does not apply, then what is the relation where there is no classification and it takes a commodity rate?

A. I have stated that between large distributing centers, there are commodity rates on fresh meats and packing house products and those commodity rates are always higher than the rates on live stock. Take for example, the rate on——

Mr. DAWES: I will ask you right there if the live stock moves in to these places at all?

A. Sir?

Q. Does live stock move in to these places at all?

A. Take——

Q. Won't you answer that?

A. Yes sir.

Q. An animal at a time?

A. No sir.

Q. Well, all right, go ahead.

A. Take Denver for example: The rate on cattle from Denver to Chicago is 47 cents—I prefer to get the tariff on that, I
2460 might misstate it (refers to printed tariff). The rate on live stock from Denver to Chicago on cattle is 49 cents, and 33 cents to the Missouri River. The rate on fresh meat from Chicago to Denver, or from Denver to Chicago, is 80 cents, and between the Missouri River and Denver is 60 cents. That is fairly representative of the adjustment at other points in the West. The rate on packing house products between Chicago and Denver is 70 cents, and the rate between the Missouri River and Denver is 50 cents, the rates being 10 cents less on packing house products than on fresh meats, and both the packing house product rates and the fresh meat rates are higher than the live stock rates, and Denver is a packing center.

Q. Do they ship any packing house product or dressed meat from Denver to Chicago?

A. I could not say positively on that.
Q. What is your best impression on that?
A. Some I should think.
Q. That is pretty indefinite?
A. Denver supplies her local territory there and I doubt if there is enough moved eastbound from Denver to make any appreciable volume.

Mr. SEVERANCE:

Q. Name one shipper shipping from Denver to Chicago so we can look him up.
A. No, I say it is inappreciable.
Q. Do you know there are any?
2461 A. Not of my own personal knowledge.
Q. Do you know of any live stock shipped from Chicago to Omaha and then to Denver?
A. It would be a most unnatural movement. I don't know of any unless it is fine stock.

The COURT: Mr. Cowan, go ahead.

Mr. COWAN:

Q. State the relative cost of the transportation of live stock and its products and also in that connection compare it with the average cost of transportation of all freight.
A. I have prepared figures showing the comparative cost and earnings on an average train of 800 gross tons, the comparison being between fresh meat and cattle. The comparison is based on a paying revenue per car of eleven tons of fresh meat and eleven and a half tons on cattle, using an average weight of 21 tons for the weight of the car and ice on the fresh meat and 16 tons for the weight of the car and bedding on cattle. The total dead weight per car in tons, total gross weight would be 32 tons, and on cattle 27.5 tons. The percentage of paying weight per car of fresh meat, 34.37 per cent., and on cattle, 41.81 per cent.
The train on the basis of 800 tons would be composed as follows: 25 cars of fresh meat and 29 cars of live cattle—on the basis of the gross weight given.
2462 The total paying tons in the train would be 275 tons of fresh meat, and 333.5 tons of cattle.
The gross revenue per train at 20 cents per hundred pounds, would be on the fresh meat, $1,100, and on cattle, $1,334.
The gross revenue per train mile on the basis of 500 miles would be on fresh meat, $2.20, and on cattle, $2.668.
I have shown the known and estimated expenses on fresh meat train of 25 cars to be as follows:

Car mileage 1 cent per mile both ways	$250.00
Switching paid at Mo. River, $3 per car	75.00

I have used the $3 per car because I believe from my own personal knowledge as to costs, that it closely approximates that at all the River markets. At South Omaha it is true, it is $2. At Kan-

sas City some of the lines pay as high as $4.50, and I thought that $3 correctly represents an average cost.

Mr. SEVERANCE: Some of them don't pay any?

A. That may be true.

Q. Well, isn't that true?

A. I don't know.

Q. And if they don't pay any, don't the other roads have to absorb it in order to put themselves on an equality and ought not that item to be disregarded in comparisons?

A. I don't think so because it is an actual cost.

2463 Switching paid at Chicago, $3 per car..... 75.00
Loss and Damage per car, $1..... 25.00

Total, $425.00, or an average per car of $17.00.

Net revenue after the above deduction would be $675.00, and the average earnings per train mile, 500 miles, would be $1.35, after making those deductions.

The known and estimated expenses on cattle, 29 cars, I make as follows: Mileage, 6 cents per mile both ways, $174. Cost of maintaining stock yards, water facilities, yard tracks, depreciation and station service as per Mr. Gardner's evidence, which I adopt as being correct, $1.75 per car, making $50.75. Loss and damage to stock and personal injury to stockmen at $1.15 per car, as per Mr. Gardner estimate, $33.35. Extra cost of delivery at Union Stock Yards, above the $2 terminal charge, according to the statements filed in that case, $.22.

In explanation of that item, I might say that at the time the terminal charge case was being litigated before the Interstate Commerce Commission, all the roads interested filed itemized statements of the cost of delivering live stock at the Union Stock Yards. The average of those statements amounted to $2.22, and as they collect a $2-terminal charge, I have charged against this live stock, 22 cents, which, on 25 cars—29 cars, amounts to $6.38.

2464 Cleaning cars at 25 cents, $7.25 for 29 cars. Bedding cars at 25 cents, $7.25. Cost of passenger service $1 per car estimated as a possible cost, though not admitted to be incurred or lost, $29.

Mr. SEVERANCE: Why do you put it $1 per car?

A. That is an estimate.

Q. There is one man for every two cars?

A. I don't agree to that, I think there are nearer one man to every three cars.

Total, $307.98. Average per car, $10.62.

The net revenue per train after above deduction is $1,026.02.

Average earnings per train mile, 500 miles, $2.05.

In the above calculations no consideration is given to the fact that in returning the refrigerator cars there is 30 to 40 per cent. more weight per car than on live stock cars; nor is any consideration given to the fact that the live stock cars are loaded more frequently on their return movement than are refrigerator cars; nor is the fact that the product is more valuable than live stock considered. Due allowance should also be made on this account, namely, difference in value, in

determining what proportion of the fixed charges and maintenance charges should be borne by live stock and its product.

In further explanation of that particular point there are
2465 of course, certain fixed charges of the railroad, such as maintenance of way, maintenance of road and structures and buildings, station service and so forth, and of these items I think it would be fair to charge the product with a greater percentage than the live stock, because the product is a more valuable commodity, for the same reason that you would not burden a car of coal with the same proportion of fixed charges as you would a car of silk. Therefore, I think that the product should pay a greater proportion of these fixed charges than live stock.

The COURT: Why should the high valued one pay more than a low valued one, is there any other reason than the risk?

A. No.

Q. It is worth more to carry a valuable article, because the risk is greater if it is lost or destroyed or injured. Now, is there any other reason for saying that you should charge the valuable article more than the risk incurred.

A. Well, the value of the service,—of course, the risk is greater.

The COURT: Does not the value of the service depend on the risk—does it depend on anything else?

A. Well, the value of the service to the shipper depends on something else, yes sir. Take for example, the fixed charges of a railroad including the dividends that say are 30 per cent. of the gross
2466 operating expenses. Now, I contend that all freight should not bear the same proportion per pound of those fixed charges, in other words, that a car of lumber should not stand as much fixed charges as should a car of dry goods. And if I am correct in that assumption then there ought to be a slight difference between the burdens which should properly be placed upon the product as compared with the live stock. The roads classify their operating expenses in about this way: Maintenance of way and structure, maintenance of equipment, and conducting transportation, and the general expenses. Now, such of those as are considered fixed, or such of those as cannot be properly analyzed under conducting transportation, that is, maintenance of way and general expenses, I think that the product should be burdened with a little larger proportion of those than the live stock, and for that reason in comparison, or the comparison that I have submitted does not reflect the true condition of what the rates should be. That is based actually on the cost of service.

Mr. COWAN:

Q. Your comparison does not involve an attempt however, to charge more to one than to the other?

A. No sir, it does not.

Q. You may file that as an exhibit to your testimony if you please.

A. Yes sir.

2467 (The document above referred to was filed by the witness as a part of his testimony, marked "Tomlinson Exhibit 15, C. P. D.")

2465a *Comparison of Costs and Earnings on Average Train of 800 Gross Tons.*

	Fresh meats.	Cattle.
Paying revenue per car in tons	11 tons.	11.5 tons.
Average weight of car and ice; and car and bedding in tons	21 tons.	16. tons.
Total dead weight per car in tons	32 tons.	27.5 tons.
Percentage of paying weight per car	34.37 %.	41.81 %.
Gross weight of train of 800 tons equals:		
25 cars fresh meat at 32 gross tons per car	800 tons.	
29 cars live cattle at 27.5 gross tons per car		797.5 tons.
Total paying tons in train	275 tons.	333.5 tons.
Percentage of paying weight to gross weight of train.	34.37 %.	41.81 %.
Gross revenue per train at 20 cents per 100 lbs	$1100.00	$1334.00
Gross revenue per train mile on a basis of 500 miles.	$2.20	$2.668

Known and Estimated Expenses on Fresh Meat Train of 25 cars.

Car Mileage 1 cent per mile both ways	$250.
Switching paid at Mo. Riv. $3.00 per car	75.00
Switching paid at Chicago $3.00 per car	75.00
Loss & damage per car $1.00	25.00
Total	$425.00
Average per car	17.00
Net revenue per train after above deduction	675.00
Average earnings per train mile 500 miles	$1.35

Known and Estimated Expenses on Cattle, 29 Cars.

Mileage 6 cents per mile both ways	$174.00
Cost of maintaining stock yards, water facilities, yard tracks, depreciation, station service (Gardner's evidence page 346 Rec.) at $1.75 per car	50.75
Loss and damage to stock and personal injury to stockmen at $1.15 per car as per Gardner's statement	33.35
Extra cost of delivery at U. S. Yards Chicago above $2.00 terminal charge, according to statements filed in that case .22	6.38
Cleaning cars at 25 cents	7.25
Bedding cars at 25 cents	7.25
Cost of passenger service $1.00 per car (estimated as a possible cost though not admitted to be incurred or lost)	29.00
Total	$307.98
Average per car	10.62
Net revenue per train after above deductions	$1026.02
Average earnings per train mile, 500 miles	$2.05

In the above calculations no consideration is given to the fact that in returning the refrigerator cars there is 30 to 40 % more weight per car than on live stock cars; nor is any consideration given to the fact that live stock cars are loaded more frequently on their return movement than are refrigerator cars; nor is the fact that the product is more valuable than the live stock considered. Due allowance should also be made on this account, viz. difference in value, in determining what proportion of the fixed charges and maintenance charges should be borne by live stock and its product.

Tomlinson Ex. # 15. C. P. D.

Q. Have you any comparison of the average operating expenses in connection with the traffic, or have you in your hand some further comparison with regard to the transportation of live stock?

A. I have a further comparison of the cost and earnings of an estimated train of 800 tons between packing house products and hogs.

Without reading the statement in detail, I will say that on packing house products, I have taken the gross paying weight at the minimum of 26,000 pounds. I have taken hogs at the minimum of 17,000 pounds. The rates on both of these commodities are based on a certain minimum per car. The minimum is as much a part of the rate as is the rate itself and therefore, I think it is fair to com-

pare rates based upon the minimum. This comparison shows after enumerating the expenses given in the other statement, that the gross revenue per train mile on basis of 500 miles on packing house product would be, $2.392, and on hogs, $2.176. The hogs yielding a less revenue per train on the same gross train than the packing house product. In this statement no consideration is either given to the fact that we return a heavier car, or to the other facts enumerated in connection with the other statement.

(The statement was filed as part of the evidence of the witness, marked "Tomlinson Ex. 211.")

2465*b*

TOMLINSON EX. 211.

Comparison of Cost and Earnings on Estimated Train of 800 Tons.

	Packing house product.	Hogs.
Paying revenue per car in tons	13 tons	8.5 tons
Average weight of car and ice; and car and bedding	21 tons	16.0 tons
Total gross weight per car	34 tons	24.5 tons
Percentage of paying weight per car	38.23%	34.7%
Gross weight of train of 800 tons equals:		
23 cars Packing House Product at 34 gross tons per car	782 tons	
32 car Hogs at 24.5 gross tons per car		784. tons
Total paying tons in train	299 tons	272. tons
Percentage of paying weight to gross weight of train	38.23%	34.7%
Gross revenue per train at 20 cents per 100 pounds	$1196.00	$1088.00
Gross revenue per train mile on basis of 500 miles	$2,392	$2,176

Known and Estimated Expenses on Packing House Product Train of 25 Cars.

Car mileage 1 cent per mile both ways	$230.00
Switching paid at Mo. River at $3.00 per car	69.00
" " " Chicago at $3.00 per car	69.00
Loss and damage per car $1 00	23.00
Total	$301.00
Average per car	$17.00
Net revenue per train after above deduction	$805.00
Average earnings per train mile, 500 miles	$1.61

Known and Estimated Expenses on Hogs, 32 Cars.

Car mileage .6 cent per mile both ways	$192.00
Cost of maintaining stock yards, water facilities, yard tracks, depreciation, station service (Gardner's evidence, page 346 rec.), at $1.75 per car	56.00
Loss and damage to stock and personal injury to stockmen at $1.15 per car as per Gardner's statement	36.80
Extra cost of delivery at U. S. Yards, Chicago, above $2.00 terminal charge, according to statements filed by railroads in that case 22 cents	7.04
Amount forward to page 2	$291.84

2465*c*

	Packing house product.	Hogs.
Cleaning cars at 25 cents		$8.00
Bedding cars at 25 cents		8.00
Cost of passenger service at $1.00 per car (estimated as a possible cost, though not admitted to be incurred or lost)		32.00
Amount forwarded from page 1		291.84
Total		$339.84
Average per car		10.62
Net revenue per train after above deduction		748.16
Average earnings per train mile, 500 miles		$1,496

EXHIBITS NOT SUITABLE FOR MICRO-FILMING

2468 The WITNESS: I had also a comparison, which I mislaid, showing what the average earnings were per train, after these deductions had been made, assuming that on shipments from Iowa, there were three cars of cattle for every two cars of hogs, and assuming further that there were two cars of fresh meat shipped from Kansas City and St. Joe for every one car of packing house product. I will furnish the statement a little later. I have mislaid it somewhere.

Mr. COWAN:

Q. Have you a statement prepared from the annual reports of the railroads, and other authentic data, which correctly shows the relative cost of transporting either freight per ton mile, per car mile, and otherwise illustrating the cost of transportation service?

Mr. SEVERANCE: That is the rules of the defendant roads?

Mr. COWAN: Yes, he will call attention to the roads, whatever he has about it?

A. I have a statement of certain transportation and other statistics of the operation of the C. M. & St. P. Railroad, showing the mileage per ton, gross, net tonnage, tonnage revenue, cost, net revenue, for the year ending June 30, 1905, compiled from information published in the annual reports of that company. It shows the percentage of increase of all the detailed items of 1902 over 1895, and of 1905 over 1895. It briefly shows this—

2468*a* COPY TOMLINSON EX. 201.

Group VI. C., M. & St. P. Ry.

Number of tons of freight carried one mile per mile of line.....	706,415.	590,800.
Average number of tons in train..	284.92	264.62
Average haul per ton.....	140.87	175.14
Revenue per train mile, freight trains	2.25	2.32
Revenue per ton per mile.....	.774	.8813
Freight earnings per mile of road..	$5,579.80	$5,206.84

Group VI is a group arranged for statistical purposes by the Interstate Commerce Commission, embracing the States of Iowa, Wisconsin, Minnesota and parts of Missouri and North and South Dakota. The figures given for the C. M. & St. P. Ry. are shown in their annual report for the year ending June 30, 1905.

Mileage of loaded freight cars in Group VI:—	
North and East.....	897,769,207
South and West.....	813,888,528
Unclassified	334,501,343
Total	2,046,159,078
Mileage of empty freight cars, Group VI:—	
North and East.....	309,316,962
South or West.....	407,254,464
Unclassified	122,746,641
Total	839,318,067
Grand total of mileage of freight cars loaded and empty in Group VI.....	2,885,477,145

2468*b* Above figures show that, assuming the total mileage of freight cars to be 100 cent., the loaded freight car mileage represents 70.9 per cent., and the empty freight car mileage represents 29.1 per cent.

2469 Mr. DAWES: What kind of items are they?

The WITNESS: What do you say?

Mr. DAWES: What is the general nature of the items, if you are not going to read them?

The WITNESS: I will read the items. The mileage, for example, in 1902 over 1895 was increased 7.2%; gross earnings increased 66.8%; the total expenses increased 77.1%; net earnings increased 49.7%; the actual net earnings increased 85.8%. The number of tons revenue freight carried one mile increased 126 per cent.; miles run by freight trains increased 33.7%; number of tons revenue freight carried one mile per mile of road increased 108 per cent.; number of tons revenue freight per ton mile increased 67 per cent. The average mile each ton of revenue freight was carried increased 19 per cent. The average revenue per ton of revenue freight per mile, in cents, decreased 21.8 per cent. The average revenue from freight per train mile increased 30.5 per cent. The average expenses per revenue train mile were as follows: Maintenance equipment increased 23.5 per cent. Station service decreased 38.7 per cent.; train service increased 3.7 per cent. Engine and round house men increased 19 per cent. Train and station supplied decreased 2.2 per cent. Fuel for locomotives increased 37 per cent. Oil, tallow, and waste increased 48.2 per cent. The total increased 4.4 per cent.

2470 All other expenses not specified increased 73.3. Grand total of these average expenses for operation increased 32.3 per cent. The percentage of increase or decrease is also shown for 1905 compared with 1895.

Mr. COWAN: It will not be necessary to read all those, Mr. Tomlinson. Explain in a general way what the document shows and file it.

The WITNESS: This statement is fairly representative of all the other lines operating in the same territory. It was selected for this road because the annual report of the C. M. & St. P. Railway publishes more detailed statistics on that point than any other line.

Q. Does that road also reach all these points in controversy?

A. Yes, sir, it shows——

Mr. SEVERANCE: You are going over it, aren't you?

The WITNESS: Yes, sir. I was not going to read any more.

Mr. SEVERANCE: I would like to object to that as incompetent and immaterial.

Mr. DAWES: Yes, it is immaterial.

Mr. COWAN: It is introduced for the purpose of showing what the operating expenses of the road have been, to show how much the tonnage earnings have been and how they have increased; to show what the tonnage earnings per mile have been and the

2471 quantity of it, to show the comparative statistics relative to the hauling of the traffic and the performance of the public service.

Mr. SEVERANCE: That is interesting, but how does it have anything to do with the issues in this case, Mr. Cowan?

The COURT: We will determine that when we come to the argument. Objection overruled.

The WITNESS: I have a further statement showing a comparison between certain C. M. & St. — statistics shown on that statement and the average of all lines in a group, known as group 6, which is a subdivision, an arbitrary subdivision made by the Inter-state Commerce Commission in dividing up the territory of the United States. Group 6 covers all points in Iowa, Missouri, parts of Illinois and Wisconsin, parts of Minnesota, and I think a part of South Dakota.

Mr. SEVERANCE: Does it include simply the defendants in this case?

The WITNESS: Yes, sir.

Mr. SEVERANCE: That would make a difference of course.

The WITNESS: It includes all of Illinois, part of Missouri, all of Iowa, all of Wisconsin, all of Minnesota and parts of North and South Dakota, and is attached to the statement so that it may be intelligible.

Mr. SEVERANCE: Does it include any lines of railroad other than the lines of the defendants here?

The WITNESS: It probably does, yes, sir.

2472 Mr. SEVERANCE: Then I object to it on that special ground and as incompetent and immaterial.

The WITNESS: It undoubtedly does, yes, sir, certainly.

The COURT: Objection overruled. Go ahead and file it.

The WITNESS: This statement as well shows the mileage on loaded freight cars in this group and the mileage of empty freight cars in that group and the percentage that the empty freight car mileage represents of the total freight car mileage.

Mr. SEVERANCE: Now, your Honor, it does seem to me, pardon my suggesting it—that the record ought not to be encumbered with anything like this. Here is an average taking in a lot of rates that have nothing to do with this litigation. It is not responsive to any of the issues here. It means more printing and more trouble for everybody.

The COURT: The Court will not consider it.

Mr. SEVERANCE: Your Honor, we can't help considering it. How can we tell, your Honor, what your Honor will consider? It is in here, is the record. We have got to argue on some basis and the only basis upon which we can make argument is upon the stuff in the record. Your Honor may conclude to consider something we think is immaterial; in fact I think your Honor will, because you have overruled objections we have made which it seems to me were good; but this seems to be so clearly immaterial, if your Honor will

2473 admit this we might as well let Mr. Tomlinson hand in anything he has in the chair.

The COURT: I think myself he would get along as well if he did and save time.

Mr. SEVERANCE: If that is your Honor's ruling and Mr. Tomlinson can file any statement he pleases on any subject, of course it is idle to object.

The COURT: Objection overruled. Go ahead as fast as you can.

The WITNESS: Here is a statement of the ratio of total compensation paid to railway employés, gross earnings from operation of roads for the years named, prepared by the Inter-state Commerce Commission.

Mr. COWAN: It is the percentage for each year for ten years of the amount paid for wages to the gross earnings of each one of those roads?

Mr. SEVERANCE: As a matter of form I object to that as immaterial.

The COURT: Objection overruled. What is the next statement?

The WITNESS: The next statement shows the mileage of the C. B. & Q. Railroad—certain statistics about the C. B. & Q. Railroad, showing mileage, gross earnings per mile road, gross earnings operation, percentage operating expenses to earnings, the operating
2474 expenses, operating expenses per mile road, maintenance of way structures, percentages, maintenance equipment percentages, deducting transportation percentages and general expenses percentages.

Mr. DAWES: I will ask you if that is all contained in the annual report on file here.

The COURT: Where did you get this?

The WITNESS: From the Inter-state Commerce Commission, your Honor.

Mr. DAWES: May I ask, before that is admitted, what issue it tends to prove here?

The WITNESS: For ten years, commencing 1893 and ending 1903.

Mr. DAWES: Mr. Cowen, will you be kind enough to answer that question?

Mr. COWAN: Yes, I will answer it. The book these gentlemen have read with respect to what *us* a reasonable rate on freight certainly lays down the rule that it depends in a large measure upon the earnings which a railroad company is making. That depends upon the traffic which it hauls, the comparison going back to a period of ten years, shows the earnings and operating expenses per mile of lines, figured out per mile of line.

The COURT: You want to show this rate is reasonable under the ruling of the Supreme Court?

Mr. COWAN: I will introduce this upon the reasonableness
2475 of the rate; also as a general proposition I think it is admissiable for the court to understand what has been——

Mr. SEVERANCE: Admissible on general principles.

The COURT: The Court will admit it on both grounds.

Mr. DAWES: If it is admitted there is no reason for arguing any more.

Mr. COWAN: There is no way to compare the Burling. with the Northwestern, except by so many miles of line.

Mr. DAWES: You can't properly prove it in that way.

(Four statements were then introduced in evidence by counsel for the Complainant, marked Exhibits 200, 201, 202, 203. Also statements from annual reports as follows: C. B. & Q. R. R. Co., marked Exhibit 204; C. & N. W. R. R. Co., marked Exhibit 205; Chicago Milwaukee & St. Paul R. R. Co., marked Exhibit 206; Chicago Great Western Ry. Co. marked Exhibit 207; Illinois Central R. R. Co. marked Exhibit 208, Atchison, Topeka & Santa Fe R. R. Co., marked Exhibit 209.)

Statement Showing Ratio of Total Compensation Paid to Railway Employees to Gross Earnings from Operation of the Roads Named for the Years Ending June 30—

Name of road.	1893.	1894.	1895.	1896.	1897.	1898.	1899.	1900.	1901.	1902.	1903.	1904.
Atchison, Topeka & Santa Fe Ry. Co.	41.55	47.31	49.44	43.54	45.35	41.60	37.62	33.74	31.02	32.26	39.69	35.87
Chicago & Alton Ry. Co.	35 42	31.46	31.85	31.49	32.44	33.49	34.16	40.93	44.74	45.70	(*)	40.77
Chicago & North Western Ry. Co.	41.86	39.35	40.76	38.67	39.89	39.42	39.01	39.12	38.85	39.98	40.91	41.38
Chicago, Burlington & Quincy R. R. Co	43.05	40.96	44.35	42.62	39.24	37.48	39.11	41.17	41.81	39.97	38.05	(†)
Chicago Great Western Ry. Co.	50.03	43.66	45.46	38.53	45.19	41.27	40.08	40.58	39.94	46.97	51.53	(†)
Chicago, Milwaukee & St. Paul Ry. Co.	42.65	40.03	39.92	37.89	37.48	36.27	35.66	36.88	37.43	37.72	(‡)	41.18ℓ
Chicago, Rock Island & Pacific Ry. Co.	39.92	38 66	39.64	37.55	37.78	34.20	35.48	33.83	32.60	32.97	36.61	40.76
Illinois Central R. R. Co.	47.67	44.31	44.99	43.16	44.55	44.32	46.59	46.79	45.28	43.70	45.93	49.13
International & Great Northern R. R	45.86	51.38	48.20	49.47	40.73	39.05	36.65	36.75	34.76	37.74	40.72	41.84
Missouri, Kansas & Texas Ry. Co.	41.62	41.32	37.29	41.80	39.75	36.63	38.11	38.20	34.46	38.87	40.66	42.72
Missouri Pacific Ry. Co.	42.37	45.44	49.66	44.64	48.48	45.61	43.35	42.89	41.36	43.24	43.86	46.52
St. Louis & San Francisco R. R. Co.	34.76	37.13	36.21	37.78	38.61	36.70	37.72	35.33	34.77	40.80	41.41	41.18
St. Louis, Iron Mountain & Southern Ry. Co	41.54	39.14	38.92	37.58	33.33	36.14	35.69	32.55	35.37	39.86	41.80	43.03
St. Louis Southwestern Ry. Co.	46.78	45.97	42.54	44.96	46.55	41.93	37.82	37.77	36.63	47.12	51.36	39.44
Texas & Pacific Ry. Co	40.74	41.64	39.61	42.66	40.86	39.62	40.66	41.44	35.51	39.99	46.23	44.72
Wabash R. R. Co.	42.45	42.40	42 30	40.18	40.62	39.05	38.45	36.44	36.60	36.86	37.83	40.55

* Incomplete.
† Report not filed Nov. 12, 1904.
‡ No Compensation reported.
ℓ Based on returns for approximate compensation.

[Endorsed:] Copy. Plaintiff's Exhibit, Tomlinson evidence.

Mr. COWAN:

Q. Have you the printed reports of several of the railroads?

A. Yes, sir.

Mr. COWAN: We will offer in evidence the printed annual reports from 1902 down to date of the several roads, as Mr. Tomlinson may call them out. I don't recollect which ones we have.

Mr. SEVERANCE: Can't you have them marked without taking the time to do it now.

2476 Mr. COWAN: Yes, we will have them marked A, B, C &c., later.

Q. Have you any comparison of rates contained in the publication of the Inter-state Commerce Commission from which Judge Baxter introduced some rates the other day?

A. Yes, sir.

Q. Just call the page and what you *rp*opose to introduce and a copy can be filed later.

A. The book is entitled "A Forty Year Review of Changes in Freight Tariffs, prepared by the Auditor of the Interstate Commerce Commission".

The COURT: Isn't that already in evidence?

Mr. COWAN: No. Judge Baxter just read from certain pages of it.

The WITNESS: The pages are, page 86——

The COURT: The ones you want—go ahead.

The WITNESS: Yes, sir—and pages 103 and 104.

Mr. DAWES: What do they relate to?

The WITNESS: They relate to the rates on live stock between Chicago and New York and the rates on dressed beef and dressed hogs Chicago to New York.

Mr. SEVERANCE: That is objected to as immaterial.

The COURT: Objection overruled.

The WITNESS: It relates to the rates on live stock from Kansas City, Missouri, and Leavenworth, Kansas to Chicago and the rates on packing house product from those points to

Table XLIX.—Freight Rates Charged for the Transportation of Live Stock and Dressed Meats from Chicago to New York via All-Rail Lines from March 26, 1872, to April 1, 1902.

Date.	Rates in cents per 100 pounds.							Date.	Rates in cents per 100 pounds.						
	Cattle.	Hogs.	Sheep.	Horses and mules.	Dressed beef.	Dressed hogs, in refrigerator cars.	Dressed hogs, in common cars.		Cattle.	Hogs.	Sheep.	Horses and mules.	Dressed beef.	Dressed hogs, in refrigerator cars.	Dressed hogs, in common cars.
1872—Mar. 26					90			1887—Nov. 28	18½	30	21	60	34½	34½	30
Nov. 26					95			Dec. 26	16½	30	19	60	31	31	27
1874—Dec. 1					85			Dec. 31	25	30	40	60	65	65	60
1875—Nov. 2					70			1888—May 14	25	30	25	60	65	65	5
1876—Nov. 18					65			June 18	16½	25	25	60	65	65	60
1877—Apr. 30					85			June 25	16½	25	25	60	40	40	10
Sept. 4					70			June 26	16½	25	25	60	35	35	35
Oct. 22					75			June 29	16½	25	25	60	30	30½	30
1878—Sept. 2					90			July 2	14½	25	25	60	26½	26½	24½
1879—June 9	35	35	60	60	65			July 5	12½	25	25	60	23	23	20
June 26	35	35	60	60	50			July 6	11	20	25	60	20	20	2
Aug. 4	50	40	60	60	80			July 6	24	20	25	60	17	17½	15
Aug. 25	50	45	60	60	80			July 7	24	20	25	60	15½	15½	1
Oct. 13	50	50	60	60	80			July 9	7½	20	25	60	13½	13½	13½
Nov. 10	55	50	65	65	88			July 10	24	20	25	60	12	12	12
1880—Mar. 1	55	50	65	65	88			July 11	24	20	25	60	10½	10½	10
Apr. 14	55	40	65	65	88			July 12	24	20	25	60	9	9	9
Sept. 20	55	50	65	65	88			July 13	24	20	25	60	8	8	8
Nov. 1	55	40	65	65	88			July 14	24	18	25	60	7	7	7
1881—Mar. 14	50	40	60	60	80			Aug. 3	24	18	25	60	22½	22½	22½
Apr. 1	50	35	60	60	80			Aug. 20	14½	18	25	60	25	25	25
May 9	35	35	60	60	10			Aug. 25	10	18	25	60	25	25	25
June 8	35	30	60	60	10			Sept. 24	15	18	25	60	35	35	35
June 15	35	35	60	60	10			Oct. 15	15	25	25	60	35	35	35
1882—Mar. 13	45	30	60	60	10			Oct. 22	15	30	25	60	35	35	35
Apr. 17	40	30	50	60	64			Nov. 7	15	25	25	60	35	35	
Dec. 1	40	35	50	60	64			Dec. 17	22½	30	30	60	50	50	
1883—Apr. 23	40	30	50	60	64			1889—May 1	20	30	30	60	45	45	1
Nov. 26	40	35	50	60	64			1890—May 26	20	25	30	60	45	45	4
1884—Jan. 5	40	25	50	60	64			June 16	22½	25	30	60	42	42	42
Jan. 14	40	35	50	60	64			June 20	22½	25	30	60	39	39	35
Mar. 14	40	25	50	60	64			June 26	21	25	30	60	36	36	
Mar. 21	40	30	50	60	64			June 30	19½	25	30	60	33	33	
May 5	30	20	40	60	48			July 3	18	25	30	60	30	30	30
June 24	30	25	40	60	48			July 11	18	22	30	60	30	30	30
July 21	30	30	40	60	48			Nov. 24	20	30	30	60	45	45	45
Sept. 1	30	30	40	60	52			1891—Apr. 20	28	30	30	60	45	45	
Dec. 8	40	30	50	60	70			1892—June 16	28	25	30	60	45	45	
1885—Mar. 23	40	25	50	60	70			Oct. 10	28	30	30	60	45	45	
May 4	30	25	40	60	52½			1893—Dec. 11	28	22½	30	60	45	45	
July 1	25	20	40	60	45½			Dec. 18	28	25	30	60	45	45	1
July 13	25	25	40	60	45½			1894—Jan. 1	28	30	30	60	45	45	45
Nov. 23	25	30	40	60	45½			Sept. 4	28	25	30	60	45	45	45
1886—Jan. 1	25	30	25	60	45	45½	25	Sept. 22	28	30	30	60	45	45	45
Mar. 1	35	30	45	60	65	55	50	1895—June 27	28	25	30	60	45	45	45
Dec. 20	35	35	45	60	65	55	50	July 1	28	30	30	60	45	45	45
1887—Apr. 22	35	35	60	60	65	65	60	July 1	28	30	30	60	45	45	45
June 4	35	30	40	60	65	65	60	1899—Feb. 1	25	25	25	60	40	40	40
Nov. 21	31½	30	36	60	58½	58½	54	1900—Jan. 1	28	30	30	60	45	45	45
Nov. 23	28½	30	32½	60	52½	52½	48	1901—July 29	28	30	30	60	40	40	40
Nov. 24	25½	30	29	60	47	47	43	1902—Jan. 1	28	30	30	60	45	45	45
Nov. 25	27	30	26	60	42½	42½	38	Apr. 1	28	30	30	60	40	40	40
Nov. 26	30½	30	23½	60	38½	38½	35								

Note.—For changes in the minimum carload weights governing the commodities shown above (from 1887), in carloads, see Table

1644

2476 b

Table LXVIII.—FREIGHT RATES CHARGED FOR THE TRANSPORTATION OF CLASSIFIED TRAFFIC AND IMPORTANT COMMODITIES FROM ATCHISON, KANS., ST. JOSEPH, MO., KANSAS CITY, MO., AND LEAVENWORTH, KANS., TO CHICAGO, ILL., FROM JANUARY 2, 1877, TO APRIL 1, 1902—Continued.

Date.	CLASSES AND COMMODITIES.														
	Rates in cents per 100 pounds.												Rates per car.		
	1	2	3	4	5	6	7	8	9	10	Wheat.	Rye and barley.	Corn and oats.	Cattle.	Hogs.	Sheep.
1880—Oct. 27	75	60	45	27	27	27	25½	20	25½	25½	25	20	20	67.50	67.50	45.00
Nov. 1	75	60	45	27	27	27	25½	20	25	25½	27½	22½	22½	67.50	67.50	45.00
Nov. 6	75	60	45	27	27	27	25½	20	25	25½	25	20	20	67.50	67.50	45.00
Nov. 22	75	60	45	27	27	27	25½	20	25½	25½	25½	20½	20½	67.50	67.50	45.00
1881—Jan. 1	75	60	45	27	27	27	25½	20½	25½	25½	25½	20½	20½	67.50	67.50	45.00
Mar. 8	75	60	45	27	27	27	25½	20½	27	25½	25½	20½	20½	67.50	67.50	45.00
Apr. 1	75	60	45	27	27	27	25½	25	25½	25	25	20	20	67.50	67.50	45.00
July 25	75	60	45	27	27	27	25	20	25	25	25	20	20	67.50	67.50	45.00
Nov. 7	75	60	45	27	27	27	25	20	25	25	25	20	20	60.00	67.50	45.00
1882—Jan. 2	75	60	45	27	27	27	25	20	25	25	25	20	20	60.00	67.50	45.00
Feb. 1	75	60	45	27	27	27	25	20	25	25	20	18	18	60.00	45.00	45.00
Mar. 13	75	60	45	27	27	27	25	19	25½	25	21	16½	16½	60.00	47.50	45.00
Apr. 1	75	60	45	27	27	27	25	20	25½	25	25	20	20	65.00	50.00	45.00
Aug. 1	75	60	45	27	27	27	25	20	25½	25	27½	22½	22½	65.00	50.00	45.00
Oct. 16	75	60	45	30	27	27	25	20	25½	25	25	20	20	65.00	50.00	45.00
Dec. 1	75	60	45	30	27	27	25½	20	25½	25½	28	20	20	65.00	50.00	45.00
1883—Jan. 1	75	60	45	30	27	27	25½	20	25½	25½	25	20	20	65.00	42.50	45.00

	1	2	3	4	5	6	A	B	C	D						
1883—May 5 (new classification)	90	75	50	42	28	25	37½	32	23	23	25	20	20	65.00	42.50	45.00
Nov. 12	90	75	50	32	28	25	37½	32	23	23	25	20	20	65.00	48.00	45.00
Dec. 17	90	75	50	32	28	25	37½	32	23	23	25	20	20	65.00	45.00	45.00
1884—Jan. 15	90	75	50	32	28	25	37½	32	23	23	25	20	20	65.00	42.50	45.00
Mar. 15	90	75	50	32	28	25	37½	32	23	23	25	20	20	65.00	42.50	45.00
June 2	90	75	50	35	30	25	32½	29½	23	23	25	20	20	65.00	42.50	45.00
June 16	90	75	50	35	30	25	32½	29½	23	23	25	20	20	65.00	42.50	40.00
1886—Aug. 28	90	75	50	35	30	25½	32½	29½	23	23	25	20	20	65.00	42.50	40.00
1887—Jan. 1	90	75	50	35	30	25	32½	29½	23	22	25	20	20	65.00	42.00	40.00

	1	2	3	4	5	A	B	C	D	E						
Apr. 1 (new classification)	90	75	50	35	30	32½	29½	23	20	16	25	20	20	65.00	56.00	45.00
Aug. 1	90	75	50	35	30	32½	29½	23	20	16	22½	20	20	65.00	45.00	45.00
Dec. 20	75	60	40	30	25	30	25	20	17½	16	22½	20	20	60.00	45.00	40.00
1888—Jan. 9	75	60	40	30	25	30	25	20	17½	16	22½	20	20	60.00	45.00	45.00
Mar. 26	75	60	40	30	25	30	25	20	17½	16	22½	20	20	60.00	45.00	45.00
Oct. 1	75	60	40	30	25	30	25	20	17½	16	22½	20	20	60.00	40.00	40.00
Oct. 25	75	60	40	30	25	30	25	20	17½	16	22½	20	20	1.27½	1.25	1.27½
1889—July 16	75	60	40	30	25	30	25	20	17½	16	22½	20	20	1.22	1.25	1.22
Dec. 21	75	60	40	30	25	30	25	20	17½	16	22½	20	20	1.18	1.25	1.22
1890—Jan. 25	75	60	40	30	25	30	25	20	17½	16	22½	20	20	1.12½	1.25	1.22
Aug. 25	75	60	40	30	25	30	25	20	17½	16	22½	20	20	1.22	1.25	1.25
Oct. 1	75	60	40	30	25	30	25	20	17½	16	20	20	17	1.22	1.20	1.25
1891—Jan. 1	75	60	42	30	25	30	25	20	17½	16	20	20	17	1.22	1.22	1.25
Jan. 15	75	60	42	30	25	30	25	20	17½	16	25	20	(5)	1.22	1.22	1.25
1893—June 10	75	60	42	30	25	30	25	20	17½	16	24	20	20	1.22	1.22	1.25
1894—May 12	75	60	42	30	25	30	25	20	17½	16	24	20	20	1.15	1.15	1.15
June 1	75	60	42	30	25	30	25	20	17½	16	24	20	20	1.20	1.22	1.25
July 1	80	65	45	32	27	32	27	22	18½	16	24	20	20	1.22	1.22	1.25
Dec. 1	80	65	45	32	27	32	27	22	18½	16	24	20	20	1.22	1.22	1.25
1895—Oct. 22	80	65	45	32	27	32	27	22	18½	16	8	8	8	1.22	1.22	1.25
Nov. 3	80	65	45	32	27	32	27	22	18½	16	24	20	20	1.22	1.22	1.25
1896—July 18	80	65	45	32	27	32	27	22	18½	16	16	14	14	1.22	1.22	1.25
July 15	80	65	45	32	27	32	27	22	18½	16	18	14	14	1.22	1.22	1.25
July 21	80	65	45	32	27	32	27	22	18½	16	17	14	14	1.22	1.22	1.25
July 26	80	65	45	32	27	32	27	22	18½	16	16	14	14	1.22	1.22	1.25
July 28	80	65	45	32	27	32	27	22	18½	16	18	14	14	1.22	1.22	1.25
Aug. 1	80	65	45	32	27	32	27	22	18½	16	17	15	15	1.22	1.22	1.25
Oct. 15	80	65	45	32	27	32	27	22	18½	16	17	13	13	1.22	1.22	1.25
Nov. 2	80	65	45	32	27	32	27	22	18½	16	22	17	17	1.22	1.22	1.25
Dec. 22	80	65	45	32	27	32	27	22	18½	16	19	15	15	1.22	1.22	1.25
1897—Apr. 12	80	65	45	32	27	32	27	22	18½	16	19	15	15	1.15	1.15	1.25
Apr. 20	80	65	45	32	27	32	27	22	18½	16	19	15	15	1.22	1.22	1.25
1898—Apr. 12	80	65	45	32	27	32	27	22	18½	16	19	15	15	1.15	1.15	1.25
May 5	80	65	45	32	27	32	27	22	18½	16	19	15	15	1.22	1.22	1.25
May 10	80	65	45	32	27	32	27	22	18½	16	19	15	15	1.22	1.15	1.25
May 18	80	65	45	32	27	32	27	22	18½	16	19	15	15	1.22	1.10	1.25
July 25	80	65	45	32	27	32	27	22	18½	16	19	15	15	1.22	1.22	1.25
Sept. 27	80	65	45	32	27	32	27	22	18½	16	14	13	13	1.22	1.22	1.25
Nov. 25	80	65	45	32	27	32	27	22	18½	16	14	12	12	1.22	1.15	1.25
1899—Jan. 2	80	65	45	32	27	32	27	22	18½	16	19	15	15	1.22	1.22	1.25
July 1	80	65	45	32	27	32	27	22	18½	16	18	15	15	1.22	1.22	1.25
1900—Jan. 1	80	65	45	32	27	32	27	22	18½	16	19	16	16	1.22	1.22	1.25
Oct. 20	80	65	45	32	27	32	27	22	18½	16	17	16	16	1.22	1.22	1.25
Dec. 10, to Apr. 1, 1902	80	65	45	32	27	32	27	22	18½	16	19	16	16	1.22	1.22	1.25

[1] In cents per 100 pounds.

[5] Corn, 19 cents; oats, 20 cents.

NOTE.—For changes in the minimum carload weights governing the class rates shown above (from 1887), in carloads, see text, p. 18, and for those governing commodities, see Table IX.

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Table LXIX.—Freight Rates Charged for the Transportation of Important Commodities from Kansas City, Mo., to Chicago, Ill., from May 25, 1869, to April 1, 1902.

Date.	Rates per car.	Rates in cents per 100 pounds.			Date.	Rate in cents per 100 pounds.			
	Live hogs.	Packing-house products.	Wheat.	Other grain.		Live hogs.	Packing-house products.	Wheat.	Other grain.
1869—May 25			45	35	1894—July 1	22	27	24	2
1871—July 1			40	40	Dec. 1	25½	30	24	
Nov. 1	$90 00		50	40	1895—June 18	28	35	24	
1874—Apr. 20	70 00		30	30	Aug. 1	25	30	24	
1879—Jan. 17	72 00		25	30	Oct. 22	25	30	24	
Feb. 1	57 60	35	25	30	Nov. 5	25	30	9	6
Mar. 1	57 60	30	25	30	1896—July 15	25	30	24	20
Oct. 16	67 50	30	25	30	July 13	25	30	16	14
Nov. 10	67 50	30	25	30	July 24	25	30	12	11
1880—Apr. 17	67 50	30	25	30	July 28	25	30	17	14
Nov. 7	67 50	30	25	30	July 28	25	30	16	14
1881—Apr. 1	67 50	30	25	30	Aug. 1	25	30	12	9
July 25	45 00	25	25	30	Oct. 1	25	30	17	15
1882—Feb. 1	45 00	25	20	18	Oct. 11	25	30	17	15
May 1	45 00	25	25	30	Nov. 2	25	30	22	17
Apr. 1	45 00	25	25	30	Dec. 22	25	30	19	15
Dec. 1	45 00	25	25	30	1897—Apr. 8	25	30	19	15
1883—Jan. 1	45 00	25	25	30	Apr. 12	15	15	19	15
May 15	45 00	25	25	30	Apr. 20	25	25	19	15
Dec. 17	45 00	25	25	30	1898—Apr. 12	15	25	19	15
1884—Jan. 14	45 00	25	25	30	Apr. 12	15	25	19	15
1886—Aug. 23	45 00	25	25	30	Apr. 20	15	15	19	15
1887—Jan. 10	45 00	25	25	30	Apr. 21	15	15	19	15
Apr. 1	45 00	25	25	30	Apr. 30	15[1]	15	19	15
Aug. 1	45 00	25	22½	30	May 5	25	25	19	15
Dec. 31	45 00	30	22½	30	May 10	15	15	19	15
1888—Feb. 8	45 00	25	22½	30	May 16	15	15	19	15
Feb. 9	45 00	15	22½	30	July 25	25	25	19	15
Feb. 16	30 00	15	22½	30	Sept. 27	25	25	19	15
Feb. 27	30 00	15	22½	30	Nov. 25	15	15	19	15
Mar. 1	30 00	30	22½	30	1899—Jan. 2	25	25	19	15
Mar. 26	45 00	30	22½	30	July 1	25	25	19	15
June 28	30 00	30	22½	30	1900—Jan. 1	25	25	19	15
Oct. 15	37 50	30	22½	30	Oct. 30	25	25	17	15
1889—July 19	37 50	15	22½	30	Dec. 10, to Apr. 1, 1902	25	25	19	16
Nov. 1	31 00	15	22	30					
1890—Apr. 22	34 00	15	22½	30					
Aug. 28	37 50	18	22½	30					
Oct. 1	37 50	18	30	20					
1891—Jan. 1	45 00	22	30	20					
Jan. 13	33 00	22	30	20					
1893—June 16	41 00	22	24	20					
1894—May 12	22 00	22	24	20					

[1] Corn and oats, 17 cents.

[2] Corn, 19 cents.

NOTE.—For changes in the minimum carload weights governing the commodities shown above (from 1887), in carloads, see Table X.

RATES FROM MISSOURI RIVER POINTS TO ST. LOUIS.

The table following shows the rates from the principal Missouri River points, such as Atchison, Kansas City, St. Joseph, and Leavenworth, to St. Louis, for classified traffic, the principal grain articles, and cattle, hogs, and sheep, the period covered being from 1877 to the present time. The freight classification governing these rates has changed at various times, and such changes have resulted in a lower classification of the articles taken under the class rates in this table. For the articles specially mentioned it may be seen exactly what changes have taken place.

The second table, although partially covering rates shown in the first, embraces also the rates for packing-house products, and shows the changes since January 17, 1879.

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TABLE LXX.—FREIGHT RATES CHARGED FOR THE TRANSPORTATION OF CLASSIFIED AND SPECIFIC AND IMPORTANT COMMODITIES FROM ATCHISON, KANS., KANSAS CITY, MO., ST. JOSEPH, MO., AND LEAVENWORTH, KANS., TO ST. LOUIS, MO., VIA RAIL LINES FROM JANUARY 2, 1877, TO APRIL 1, 1892.

Date.	CLASSES AND COMMODITIES.														
	Rates in cents per 100 pounds.												Rates per car.		
	1	2	3	4	5	6	7	8	9	10	Wheat.	Corn and oats.	Rye and barley.	Cattle.	Hogs.	Sheep.
1877—Jan. 2	60	45	30	25							25	17½	17½	$70.00	$60.00	$37.50
May 1	60	45	30	25							25	18	18	50.00	50.00	37.50
June 1	60	45	30	25							25	18½	18½	50.00	50.00	37.50
July 15	60	45	30	25							25	16	16	50.00	50.00	37.50
Aug. 26	60	45	30	25							25	20	20	50.00	50.00	37.50
Sept. 7	60	45	30	25							24	19	19	50.00	50.00	37.50
Oct. 19	60	45	30	24							24	19	19	50.00	50.00	37.50
Nov. 1	60	45	30	24							24	19	19	50.00	50.00	37.50
1878—Jan. 12	60	45	30	20							24	16	16	50.00	40.00	33.00
Jan. 14	60	45	30	20							20	16	16	50.00	40.00	33.00
May 6	60	45	30	20							20	15	15	50.00	40.00	33.00
July 25	60	45	30	20							20	15	15	50.00	40.00	33.00
Nov. 18	60	45	30	25							20	15	15	50.00	40.00	33.00
Nov. 27	60	45	30	25							20	15	15	50.00	40.00	33.00
1879—Feb. 1	60	45	30	25							20	15	15	50.00	40.00	33.00
Feb. 10	60	45	30	20							20	15	15	50.00	40.00	33.00
1880—Apr. 5 (new classification)	60	45	30	20	20	20	20	15	22	20	20	16	16	50.00	40.00	33.00
Apr. 21	60	45	30	20	20	20	20	15	20	20	21	9	9	50.00	40.00	33.00
Apr. 24	60	45	30	20	20	20	20	15	20	20	10	7	7	50.00	40.00	33.00
Sept. 29	60	45	30	20	20	20	20	15	20	20	18	12	12	50.00	40.00	33.00
Oct. 27	60	45	30	20	20	20	20	15	20	20	20	15	15	50.00	40.00	33.00
Nov. 6	60	45	30	20	19	20	20	15	20	20	20	15	15	50.00	40.00	33.00
1881—Nov. 7	60	45	30	20	19	20	20	15	20	20	20	15	15	50.00	40.00	33.00
1882—Jan. 2	60	45	30	20	19	20	20	15	20	20	20	15	15	45.00	40.00	33.00
Feb. 1	60	45	30	20	19	20	20	15	20	20	20	15	15	45.00	40.00	33.00
Mar. 15	60	45	30	20	19	20	20	15	20	20	20	15	15	45.00	40.00	33.00
Apr. 1	60	45	30	20	19	20	20	15	20	20	17	12½	12½	45.00	40.00	33.00
May 1	60	45	30	20	19	20	20	15	20	20	20	15	15	47.50	40.00	33.00
Oct. 16	60	45	30	20	19	20	20	15	20	20	22½	17½	17½	47.50	40.00	36.00
1883—Jan. 1	60	45	30	25	19	20	20	15	20	20	20	15	15	47.50	40.00	33.00
	1	2	3	4	5	6	A	B	C	D						
1883—May 15 (new classification)	70	55	40	27	23	20	25	22	18	18	20	15	15	47.50	40.00	33.00
Nov. 12	70	55	40	27	23	20	25	22	18	18	20	15	15	47.50	37.50	30.00
Dec. 17	70	55	40	27	23	20	25	22	18	18	20	15	15	47.50	38.00	30.00
1884—June 2	70	55	40	30	25	20	25	22	18	18	20	15	15	47.50	30.00	30.00
June 16	70	55	40	30	25	20	25	22	18	18	20	15	15	47.50	30.00	25.00
1886—Aug. 28	70	55	40	30	25	20	25	22	18	18	20	15	15	47.50	30.00	25.00
1887—Jan. 1	70	55	40	30	25	20	25	22	18	18	20	15	15	47.50	30.00	25.00
	1	2	3	4	5	A	B	C	D	E.						
1887—Apr. 1 (new classification)	70	55	40	30	25	25	22	18	15	12	20	15	15	47.50	35.00	30.00
Aug. 1	70	55	40	30	25	25	22	18	15	12	17½	15	15	47.50	30.00	30.00
Dec. 26	55	40	30	25	20	22½	17½	15	12½	11	17½	15	15	42.50	30.00	30.00
1888—Jan. 9	55	40	30	25	20	22½	17½	10	10	10	17½	15	15	42.50	30.00	30.00
Mar. 26	55	40	30	25	20	22½	17½	15	12½	11	17½	15	15	42.50	30.00	30.00
Oct. 1	55	40	30	25	20	22½	17½	15	12½	11	17½	15	15	42.50	35.00	25.00
														In cents per 100 lbs.		
Oct. 25	55	40	30	25	20	22½	17½	15	12½	11	17½	15	15	126	15	20
1889—July 16	55	40	30	25	20	22½	17½	15	12½	11	17½	15	15	126	214	144
Dec. 23	55	40	30	25	20	22½	17½	15	12½	11	17½	15	15	98	214	144
1890—Jan. 30	55	40	30	25	20	22½	17½	15	12½	11	17½	15	15	98	214	144
Aug. 29	55	40	30	25	20	22½	17½	15	12½	11	17½	15	15	184	214	214
Oct. 1	55	40	30	25	20	22½	17½	15	12½	11	18	12	15	183	214	214
1891—Jan. 19	55	40	30	25	20	22½	17½	15	12½	11	18	12	15	183	214	214
1892—Aug. 1	55	40	30	25	20	22½	17½	15	12½	11	18	14	15	160	214	214
1893—June 10	55	40	30	25	20	22½	17½	15	12½	11	18	14	15	142	15	174
1894—May 14	55	40	32	25	20	22½	17½	15	12½	11	18	15	15	142	15	174
June 1	55	40	32	25	20	22½	17½	15	12½	11	18	15	15	142	15	174
July 1	60	45	35	27	22	24½	19½	17½	13½	11	18	15	15	142	15	174
1895—July 29	60	45	35	27	22	24½	19½	17½	13½	11	12	9	9	20	15	214
July 30	60	45	35	27	22	24½	19½	17½	13½	11	12	9	9	20	15	214
July 30	60	45	35	27	22	24½	19½	17½	13½	11	8	6	6	20	15	214
Aug. 1	60	45	35	27	22	24½	19½	17½	13½	11	8	6	6	20	15	214
Aug. 6	60	45	35	27	22	24½	19½	17½	13½	11	13	10	10	20	15	214
Aug. 17	60	45	35	27	22	24½	19½	17½	13½	11	13	10	10	20	15	214
Nov. 2	60	45	35	27	22	24½	19½	17½	13½	11	13	10	10	20	15	214
1897—Apr. 8	60	45	35	27	22	24½	19½	17½	13½	11	13	10	10	20	15	214
1898—Jan. 1	60	45	35	27	22	24½	19½	17½	13½	11	14	10	10	20	15	214
Apr. 8	60	45	35	27	22	24½	19½	17½	13½	11	14	10	10	20	15	214
May 5	60	45	35	27	22	24½	19½	17½	13½	11	14	10	10	10	10	214
May 10	60	45	35	27	22	24½	19½	17½	13½	11	14	10	10	10	10	214
Sept. 27	60	45	35	27	22	24½	19½	17½	13½	11	9	8	8	10	10	214
1899—Jan. 2	60	45	35	27	22	24½	19½	17½	13½	11	14	10	10	14[1]	18½	17½
July 2	60	45	35	27	22	24½	19½	17½	13½	11	14	10	10	14[1]	18½	17½
1900—Jan. 1	60	45	35	27	22	24½	19½	17½	13½	11	14	11	11	14[1]	18½	17½
Mar. 6	60	45	35	27	22	24½	19½	17½	13½	11	9	8	8	14[1]	18½	17½
Apr. 10, to Apr. 1, 1902	60	45	35	27	22	24½	19½	17½	13½	11	14	11	11	14[1]	18½	17½

[1] Rate, 15 cents.

NOTE.—For changes in the minimum carload weights governing the class rates shown above (from 1887), in carloads, see text, p. 18, and for three governing commodities, see Table IX.

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Table LXXI.—FREIGHT RATES CHARGED FOR THE TRANSPORTATION OF GRAIN AND MEAT PRODUCTS FROM KANSAS CITY, MO., TO ST. LOUIS, MO., FROM JANUARY 17, 1879, TO APRIL 1, 1902.

Date.	Rates in cents per 100 pounds.		
	Packing-house products.	Wheat.	Other grain.
1879—Jan. 17	25	25	25
Feb. 1	25	25	25
Mar. 1	20	20	25
Sept. 15	20	20	25
Oct. 16	20	20	25
Oct. 23	20	20	25
Nov. 10	20	20	25
1880—Apr. 17	20	20	25
Apr. 21	20	20	25
Apr. 24	20	20	25
May 6	20	20	25
1881—Apr. 1	20	20	25
July 25	20	20	25
Sept. 26	20	20	25
1882—Feb. 1	20	20	25
Feb. 4	20	17	25
Mar. 10	20	17	25
Apr. 1	20	20	25
Nov. 27	20	20	25
Dec. 1	20	20	25
1883—Jan. 1	20	20	25
May 15	20	20	25
June 11	20	20	25
Dec. 17	20	20	25
1884—Jan. 15	20	20	25
1885—Mch. 1	20	20	25
1886—Jan. 1	20	20	25
Aug. 23	17½	20	25
Aug. 30	17½	20	25
1887—Jan. 1	20	20	25
Jan. 10	20	20	25
Feb. 1	20	20	25
Feb. 15	20	20	25
Apr. 1	20	20	25
Aug. 1	20	17½	25
Dec. 26	15	17½	25
1888—Jan. 9	15	17½	25
Feb. 6	7½	17½	25
Feb. 11	7½	17½	25
Feb. 16	6	17½	25
Feb. 27	6	17½	25
Mar. 1	6	17½	25
1888—Mar. 26	15	17½	25
May 12	15	17½	25
June 29	15	17½	25
Oct. 1	15	17½	25
Oct. 15	15	17½	25
1889—Apr. 1	15	17½	25
May 25	15	17½	25
July 20	15	17½	25
Sept. 1	15	17½	25
1890—Mar. 3	15	17½	25
Apr. 28	15	17½	25
Aug. 25	15	17½	25
Oct. 1	15	17½	25
1891—Jan. 15	15	17½	25
Feb. 15	15	17½	25
1892—June 10	15	17½	25
1893—Dec. 1	15	17½	25
1894—June 16	15	17½	25
Aug. 1	15	17½	25
1896—July 20	15	17½	25
July 25	15	17½	25
July 30	15	17½	25
Aug. 1	15	17½	25
Aug. 6	15	17½	25
Aug. 17	15	17½	25
Sept. 30	15	17½	25
Nov. 1	15	17½	25
1897—Apr. 1	15	17½	25
Apr. 6	15	17½	25
1898—Apr. 1	15	17½	25
Apr. 6	15	17½	25
Apr. 22	15	17½	25
Apr. 30	15	17½	25
May 5	15	17½	25
May 10	15	17½	25
Sept. 27	15	17½	25
1899—Feb. 3	15	17½	25
Mch. 1	15	17½	25
1900—Jan. 1	15	17½	25
Mar. 6	15	17½	25
Apr. 10	15	17½	25
1902—Apr. 1	15	17½	25

[1] Corn and oats, 12 cents.

[2] Corn, 14 cents.

NOTE.—For changes in the minimum carload weights governing the commodities shown above (from 1887), in carloads, see Table XI.

GRAIN RATES FROM KANSAS AND NEBRASKA POINTS.

Below are given two tables showing changes in rates on wheat, corn, and other grain from Kansas and Nebraska points to Chicago. The first table begins with 1883, and shows the successive changes up to the present time from Nebraska points. In the second table will be found similar data from Kansas points, beginning with 1886.

An effort has been made to collect data which would show the changes in the through rates from Kansas and Nebraska to the seaboard. Owing to the fact that the rates from these localities to the seaboard are not published as through rates, it has been found impossible to compile these rates for a period sufficiently long to serve for the purposes of comparison. In explanation of the manner in which the through rates are determined it may be said that rates are published by the western roads from Kansas and Nebraska to Chicago and to the Mississippi River. The rates to the Mississippi River are usually 5 cents per 100 pounds less than the rates to Chicago. The through rates to the eastern seaboard are generally made on the combination of the rates east and west of the Mississippi River. It has been explained that the rates eastward from the Mississippi River to the seaboard are constructed upon a percentage basis of the Chicago rate; at present this percentage is 116. In order to ascertain the rates from the Mississippi River the tables showing the grain rates via all rail from Chicago may be extended to apply from the Mississippi River by increasing them 16 per cent. By this process it is shown that a rate of 17½ cents per 100 pounds all rail from Chicago to New York is equivalent to 20½ cents

EXHIBITS

NOT

SUITABLE

FOR

MICRO-

FILMING

LIVE STOCK, exception to rule 5. 2476

The Minimum Weights on Live Stock carloads, to be used in connection with the rates named on v and vii, will be as follows:

	Horses and mules.	Fat cattle.	Hogs, single deck.	Sheep, single deck.
Cars 27 ft. 6 in.	17,700	16,800	13,300	8,900
Cars 28 ft.	18,000	17,100	13,500	9,000
Cars 28 ft. 6 in.	18,400	17,500	13,800	9,200
Cars 29 ft.	18,800	17,800	14,100	9,400
Cars 29 ft. 6 in.	19,000	18,000	14,300	9,500
Cars 30 ft.	19,400	18,400	14,500	9,700
Cars 30 ft. 6 in.	19,700	18,700	14,800	9,800
Cars 31 ft.	20,000	19,000	15,000	10,000
Cars 31 ft. 6 in.	20,300	19,300	15,200	10,200
Cars 32 ft.	20,600	19,600	15,400	10,300
Cars 32 ft. 6 in.	20,900	19,900	15,700	10,500
Cars 33 ft.	21,200	20,100	15,900	10,600
Cars 33 ft. 6 in.	21,600	20,500	16,200	10,800
Cars 34 ft.	21,800	20,700	16,400	10,900
Cars 34 ft. 6 in.	22,200	21,100	16,700	11,100
Cars 35 ft.	22,600	21,500	16,900	11,300
Cars 35 ft. 6 in.	22,900	21,800	17,200	11,400
Cars 36 ft.	23,200	22,000	17,400	11,600

2477 Chicago. Also pages 105 and 106, containing rates on live stock and rates on product.

The COURT: Anything else, Mr. Cowan?

Mr. COWAN: I will have to ask Mr. Tomlinson what other——

The COURT: If you have anything more let it go in subject to objection, so as to save argument and time.

The WITNESS: The schedule of the Iowa Commission.

The COURT: Put that in.

The WITNESS: Just put in that portion showing the rates on live stock.

Mr. COWAN: Call the pages off and we can have it copied.

The WITNESS: Roman lettered pages IV, V, VI, VII, certain annual reports grouped together—an extract from the annual report of the C. M. & St. P. Railway for the year 1904, and from the C. & N. W. Railway for the same year showing the percentage that certain operating expenses represent of the total operating expenses. In other words, the classification of your expenses is shown in percentages in this way, the taxes, fixed charges, sinking fund, dividend and expenditures for permanent improvements, amount to 34.1 per cent. of the total expenses of the C. & N. W. Railway for that year.

Mr. COWAN: Mr. Tomlinson, won't the annual reports that are already in show those facts or not?

The WITNESS: They don't show the percentage classification.

Mr. DAWES: Where did you get them, then? You say you
2478 got them out of the annual report?

The WITNESS: The percentages are figured out for convenience.

Mr. COWAN: He made the compilations from that. We will ask to introduce the compilations he has made from the annual reports, subject to correction, of course, according to the figures in the annual reports. I suppose the compilations are correct.

The WITNESS: Also compilations from the annual report of various roads, annual reports showing the gross and net earnings, the cost per mile of line, the cost of construction of certain parts of their line, the amount of the surplus for the years as stated in those annual reports?

Mr. DAWES: For the construction of certain parts of our line?

The WITNESS: Yes, sir, as shown in the annual report.

Mr. DAWES: It ma-es no difference where they are; it isn't the part of the line over which we operate, I suppose.

The WITNESS: It is extracts from the annual reports on file in this case, showing the cost of construction of certain new lines constructed by the defendant companies.

Mr. DAWES: I object to that.

The COURT: What difference does that make?

Mr. DAWES: I don't know what that has to do with it.
2479 The WITNESS: It has a bearing in showing what it cost to construct these lines.

The COURT: If they are not the same lines——

Mr. COWAN: I didn't understand him to say it is not the line, but that it is a part of the line.

Mr. DAWES: New lines.

The WITNESS: The construction of some of the branches.

Mr. SEVERANCE: Like the equator, imaginery lines.

Mr. COWAN: That may be like your line to Ft. Dodge, for example.

The WITNESS: Estimate of the total average terminal expenses per car incurred in delivering the live stock at the Union Stock Yards as filed by the defendant carriers in the terminal charge case.

The COURT: What is the next one?

The WITNESS: An estimate——

Mr. LYNDE: Before you pass on, there are certain special objections to that last paper you have there——

The COURT: I don't know which you mean.

Mr. LYNDE: I don't know whether the Court cares to hear them. The new lines. We have special objections to that that we wish to urge if the Court cares to hear them.

The WITNESS: Did you say I should put in the terminal charge?

The COURT: No, I think not.

2480 The WITNESS: This is an estimate of what the rates should be, relative rates on live stock on basis of a minimum weight on fresh meat of 20,000 pounds, on packing house product of 26,000 pounds, cattle 22,000 pounds and a difference of 9,500 pounds between the weight of the refrigerator cars compared with the live stock cars at an allowance of 4,000 pounds for icing and salt in the refrigerator cars and 2,000 for the weight of the bedding in the live stock cars, and charging against the refrigerator car a mileage of one cent a mile and against the live stock cars of six mills, the equivalent of an 18½ cent rate on fresh meat, would be—

Fresh meat	18.5
Packing house product	15.27
Cattle	13.05
Hogs	15.57

Mr. SEVERANCE: Will that not be filed?

The WITNESS: Yes, I will file it.

Mr. SEVERANCE: Over our objection.

The COURT: Is that about all the papers?

Mr. COWAN: There are several matters I want to offer in testimony which I deem it unnecessary to ask about this evening.

Mr. SEVERANCE: I want to ask a few questions before we adjourn tonight, as I will not be here Wednesday.

The COURT: Go ahead.

2481 Cross-examination by Mr. SEVERANCE:

Q. In that table of expenses that you introduced, a comparative table, you charge against live stock cars mileage six mills a mile?

A. Yes, sir.

Q. You heard the testimony of Mr. A. B. Stickney in this case, didn't you? You were present in court?

A. I wasn't present. I read it.

Q. He showed by actual figures that the expense to his company for live stock cars was between one cent and two mills and one cent and three mills a mile instead of the six-tenths, which is the rate at which live stock cars are rented by other live stock car companies. You don't intend to dispute the accuracy of his figures or the deductions he made, do you, but you pass the six mills a mile on the fact that that is the price charged for cars by live stock car companies?

A. Yes; and further, from my own experience and knowledge on the question, I think that that is about a fair allowance.

Q. You don't dispute that Mr. Stickney gave correctly the actual expense of his line of road, do you?

A. No, sir.

Q. Now, Mr. Tomlinson——

The WITNESS: I don't dispute it because I don't know anything about it.

Q. You stated that there were a great many cattle driven into Omaha and Kansas City and you gave the figures.

A. Yes, sir.

2482 Q. And also South St. Paul; now, isn't it a fact that there are as many cattle driven out from those places as are driven in?

The COURT: By "driven out" you mean to feed?

Mr. SEVERANCE: Yes, taken out, or sold in the vicinity and driven out.

The COURT: Do you know anything about that, Mr. Tomlinson?

The WITNESS: I should think there are some driven out. It is shown in the annual reports of the Stock Yards Company on file, I should think.

Mr. SEVERANCE: If it is filed you need not bother about it. You admit there are a great many cattle driven out of those places, don't you?

The WITNESS: I should think there are a good many driven out of those markets.

Q. You don't know whether there are more driven out than there are driven in, do you?

A. I have no accurate information on that, no.

Q. Now, you stated that steers would dress out altogether in product 70 per cent.

A. I said 67.

Q. You said 70, but we will call it 67. If that is the case will you explain how it is that you arrive at 175 per cent. as the fair difference between the rates? Ought it not to be on that basis only about 133 per cent?

A. No, because there is a shrinkage which must be taken into consideration.

2483 Q. Well, that is the natural advantage, isn't it, that the packers in the Missouri River Valley have over Chicago? You don't ask the railroads to compensate Chicago for the natural shrinkage in transit, do you?

A. No, sir. I said at the outset that the natural advantages the market was entitled to.

Q. Then as a matter of fact, Mr. Tomlinson, if you figured out a basis of 67 per cent., or 70 per cent., as you stated, it does not figure out 175 per cent., does it?

A. No, sir; I didn't claim that it did.

Q. I thought you did.

A. No, sir.

Q. I misunderstood you, then.

The WITNESS: I will once more state what I——

The COURT: Just answer the question.

Mr. SEVERANCE: Answer the question; we are in a hurry. You made an elaborate statement today. You stated that South St. Paul was confined to one buyer. Why do you say that?

The WITNESS: I didn't say one buyer.

Mr. SEVERANCE: Yes, you did.

The WITNESS: One slaughterer, practically, one slaughterer.

Q. Why do you make that statement? Don't you know more about South St. Paul than that, Mr. Tomlinson?

A. If I did make that statement I didn't intend to. What I wished to convey regarding the South St. Paul market, was, as I understand it, there is practically only one slaughterer out
2484 there.

Q. What do you mean by "practically"?

A. I understand there is only one slaughterer there.

Q. Did you ever hear of McCormick & Company?

A. No.

Q. Did you ever hear of J. T. McMillan?

A. No.

Q. J. T. McMillan & Company?

A. No.

Q Did you ever hear of Bronson & Company?

A. No.

Q. Don't you think, then, you ought to hesitate a little in saying there is only one slaughterer there when you don't know anything about these other men?

The COURT: It depends on whether they exist or not.

The WITNESS: I have no doubt that small slaughterers——

Mr. SEVERANCE: As a matter of fact you don't know anything about how many slaughterers there are at South St. Paul?

A. Not exactly, no, sir.

Q. That is what I thought. It is in evidence already that these other men are engaged in business there. Now, in giving the receipts of cattle and hogs at St. Paul and Omaha, don't you include in that, the figures you gave, cattle and hogs received at those points and then shipped on to Chicago?

A. They may be included.

Q. You know they are, don't you?

A. I would think they are, yes, sir.

Q. So that the figures you gave don't convey any information as to the number of cattle that are slaughtered at those points?

A. I think I stated that the slaughter at these other markets had

increased relatively much greater than at Chicago. That is
2485 the point I wished to convey.

Q. You don't know anything about that, do you, not knowing who the slaughterers are?

A. Yes, sir, I know it from the official books that have been put in evidence.

Q. You stated that cattle from South Dakota and Wyoming and other points come through on a 12 cent balance of rate from Omaha?

A. Yes, sir.

Q. A great many of them?

A. Yes, sir.

Q. That rate you regard as high enough, do you?

A. Considering the fact that the road receives revenue West of the Missouri river on the service for hauling the cattle in to the river, in other words, considering the entire through rate of 48 cents from that district to Chicago, I regard that as amply high enough; in fact I think it is unreasonably high.

Q. That is to say, one road brings it in to Omaha; other roads that don't go beyond Omaha carry it to Chicago for 12 cents, and you think that other road is getting too much, while roads carrying it a little greater distance get 36 cents?

A. I don't know whether there is any other line East of Omaha participating in that distance. It is all hauled in by the C. & N. W. or the C. B. & Q. railroad.

Q. All of it?

A. There might be an exception. I doubt whether the Northwestern allows the Milwaukee to have any of that business. It would be unusual if they did.

Q. You said there is a 7½ cent rate on sheep from Idaho.

A. No, sir, I said there is a difference of 7½ cents be-
2486 tween the Missouri river and Chicago on sheep, between Spencer and Idaho.

Q. You regard that as too high, do you, 7½ cents too much?

A. No, sir, I do not.

Q. Is it too low?

A. I would say there would be no line that would handle business from Omaha——

Q. Answer my question; is it too high or too low?

A. I say, for the service of performing—for the service of handling a car of live stock from the Missouri river to Chicago 7½ cents, as an independent transaction, in and of itself, is too low.

Q. That is what I wanted to get. What do you say as to handling car load live stock from Omaha to Chicago on a 12 cent rate? Is that too high or too low?

A. That undoubtedly pays the cost of the service and some profit.

Q. Then you regard that as a fair rate?

The COURT: Answer whether it is too high or too low. Answer the question.

Mr. SEVERANCE: Is that a fair rate? Is that enough?

The WITNESS: For the service, if you will permit me to make an explanation——

Mr. SEVERANCE: No, I don't want an explanation. Answer the question.

The WITNESS: Repeat the question.

Mr. COWAN: The witness has a right to make an explanation.

2487 Mr. SEVERANCE: This is cross-examination.

The COURT: Is that a fair rate? Answer that.

Mr. SEVERANCE: Is that 12 cent rate a fair rate for the service of hauling cattle and hogs from Omaha to Chicago?

The WITNESS: Can I make an explanation?

The COURT: Answer it.

Mr. SEVERANCE: Answer yes or no.

The WITNESS: No.

Q. Is it too high?

The COURT: Answer that.

A. No.

Q. Is it too low?

A. In and of itself, for independent service——

Q. That is what I am asking you.

A. For independent service——

Q. Is it too low?

A. I regard it as affording——

Q. I just want you to answer the question. Is it too low? That will answer it yes or no.

A. It is a trifle too low.

The COURT: Now, what is your explanation?

The WITNESS: The explanation I wish to make is that on a shipment, in and of itself, say it originated at South Omaha, for example, for the service of transporting that shipment to Chicago I regard it as too low, but you cannot consider that 12 cent difference in

2488 the rate between Omaha and Chicago in and of itself, because it is a part of a through rate from the Black Hills District to Chicago and it is participated in only by the line which hauls the traffic west of the Missouri river.

Mr. SEVERANCE: I am not asking you on that basis at all.

The COURT: Can't you get along now until next week?

Mr. SEVERANCE: I only want to ask one or two questions on this one point. I am nearly through.

Q. Assuming that that rate is *taking* by the Milwaukee or Great Western, or any of the Lines hauling from Omaha in here, the stuff is taken over to them there by the Western Lines, you say the 12 cent rate is too low a rate, do you?

The COURT: I think he has answered that fairly and favorably to you.

Mr. SEVERANCE: If it is too hard, don't answer it.

The WITNESS: There is not a line that wants to take that 12 cents.

Mr. SEVERANCE: I haven't asked you to volunteer that statement. I asked you if the Western Line turns that over to the Milwaukee or the Great Western, if you don't say that rate is too low to Chicago?

The WITNESS: I say it is.

The COURT: We will adjourn now.

Mr. COWAN: I shall want to have various matters copied into the record; I shall have a number of things to introduce Wednes-
2489 day besides the record.

The COURT: What else have you in finishing the cross-examination?

Mr. COWAN: I have several little matters.

The COURT: Then you can close up Wednesday.

Mr. COWAN: I can if there is no embargo laid on what I have mentioned.

Mr. DAWES: If this is to be copied into the record, we don't care to have him go through all of it.

Mr. COWAN: I will offer in evidence a part of the testimony of some of these witnesses upon the authority of the decision read at the beginning of this case, which lays down the rule flat-footed that either party has a right to introduce any part of the record before the Comm-ssion. There is some of the testimony of Mr. Stickney, that I don't want to introduce in witness and I don't want to be in the position of introducing it all. Mr. Severance wants to make objection to doing that. I told him today I wanted to introduce some of the evidence of Mr. Stickney.

Mr. SEVERANCE: I want to enter a special objection to that, which is this: Mr. Stickney was produced here as a witness, and if it was desired to impeach his testimony, he should have been asked certain things on the stand——

The COURT: I will rule with you on that at the present.

Mr. COWAN: We will bring Mr. Stickney back then.

2490 Mr. SEVERANCE: I don't know whether we will or not.

Adjourned until 10 o'clock A. M., Wednesday, October 11th, 1905.

2491 WEDNESDAY, *October* 11, 1905—10 o'clock a. m.

Court met pursuant to adjournment.

Counsel present same as before.

The COURT: Have you got this matter settled yet about the Northwestern Railway Company?

Mr. COWAN: Well, Mr. Lynde was to be up here before court time. He stated to me yesterday that he would file a written waiver of his plea.

The COURT: There is also the question about the admission of evidence, and that must not be overlooked either. I do not think your evidence is competent against the North Western if they were not before the Commission.

Mr. COWAN: The only evidence we have here as to that matter is the plea.

The COURT: The record shows that they were not, and the admissions which were made show that they were not before the Commission. I don't want that question in the case because there are enough other questions to settle.

Mr. COWAN: Unless they waive that question, we propose to dismiss as to the North Western. Mr. Lynde told me that he would waive that question and unless he does, we will dismiss entirely as to the North Western. I stated that to him definitely and he understands it.

2492 I desire now to offer in evidence a copy of a statement which I have exhibited to Judge Baxter, sworn to by the Auditor of Shipments of the Santa Fe Railway in the Texas Cattle Raisers' case before the Commission, showing the amount of loss and damages paid on live stock for the years 1898 to 1904 inclusive, but embracing the last half only of 1898 and the first half only of 1904, making six years, the total of which is $233,704.00.

(The said statement so offered in evidence is marked "Complainant's General Exhibit No. 1.")

2492*a* COMP. GENERAL—EX. 1.

The Atchison, Topeka & Santa Fe Railway Company.

Statement of Payments Made to Claimants for Loss and Damage to Live Stock in Transit.

Fiscal Years Ending June 30th, 1898 to 1894, Incl.

Year 1898	$13,686.44	(last half only)
1899	15,580.44	
1900	49,455.15	
1901	55,944.68	
1902	26,831.34	
1903	48,488.85	
1904	23,667.26	(first half only)
	$233,704.16	

JOHN W. WITE,
Auditor of Disbursements.

STATE OF KANSAS, *County of Shawnee:*

J. W. White, being duly sworn on oath says that the above and foregoing statement is true, as he verily believes.

Subscribed and sworn to before me this 10th day of May, 1904.

GEO. N. HOLMES,
Notary Public.

My Commission Expires Jan. 18, 1907.

I desire to offer also in evidence a statement furnished on request by Mr. Daly of the loaded car mileage on these three divisions of the Illinois Central Railroad, extending from Chicago west, the items being named in the statement and signed by Mr. Daly.

(The said statement so offered in evidence is marked "Complainant's General Exhibit No. 2.")

I desire to offer in evidence a statement furnished by Mr. Daly, which he was interrogated about when on the stand, of the train consists on the Illinois Central of all freight east bound out of Fort Dodge and all freight east bound out of Freeport for the first fifteen days in April and October, 1904, which I have exhibited to Judge Baxter and with which he is familiar.

2493 (The said statement so offered in evidence is marked "Complainant's General Exhibit No. 3.")

I had an agreement with Mr. Dawes and Mr. Lynde in regard to the witness Martin, whose child was sick, that he might make an affidavit of some brief facts and file it in lieu of his testimony. I dictated it at his direction, and he swore to the statement which I desire to read into the record or to file a copy of it.

The COURT: All right, either way.

Mr. COWAN (Reading): "R. C. Martin of St. Charles, Iowa, live stock raiser, farmer and shipper of live stock on my oath testify that I ship about 200 cars of live stock some to Chicago but principally to Des Moines, St. Joseph and Omaha. I invariably furnish the bedding for the cars at my own expense. This applies to the Rock Island, the Burlington and the Great Western. The bedding, after the cattle are unloaded, would weigh about 800 pounds. They do not furnish me with clean cars in the winter time in more than one out of ten and in the summer one out of five."

The COURT: Furnish him with what?

Mr. COWAN: Clean cars. "And in the summer time one out of five. They usually run us about 20 miles an hour, from 30 to 45 cars to a train. With the exception of the car put at the chute when they set them, I pinch the cars to

2493*a* Statement showing the number of trains carrying live stock and the consist of such trains moved over the Division Freeport to Chicago and Fort Dodge to Waterloo, for the period April 1st to April 15th and October 1st to October 15th, 1904, filed with the Interstate Commerce Commission by J. M. Daly, Car Accountant, Illinois Central Railroad Company, furnished on request of Honorable Mr. Cowan.

Copy to
Honorable Commissioner Prouty.
Honorable Mr. Baxter.
Honorable Mr. Cowan.

2493*b* Statement showing the number of trains carrying live stock and the consist of such trains moved over the Division Freeport to Chicago and Fort Dodge to Waterloo, for the period April 1st to April 15th and October 1st to October 15th, 1904, furnished on request of Honorable Mr. Cowan.

Out of Freeport April 1st to 15th, 1904, Inclusive.

Number trains carrying stock	36
Total number cars stock	654
Average number cars stock per train	18
Total number other cars in stock trains	362
Total number stock and other cars	1,016
Average number stock and other cars per train	28
Number trains without stock	48
Number cars in trains without stock	1,515
Average number cars per train without stock	32

2493*c* Illinois Central Railroad Company.

Office of the Car Accountant.

All Freight out of Freeport East Bound April 1st., to 15th, Inclusive. 1904.

Date.	Train No.	Loads stock.	Other loads.	Empties.
1	X		5	
	#92		23	8
	64		18	20
	52		31	
	62	11	13	1
	X		41	15
2	#92		19	16
	50		10	7
	52		22	10
	60	6	21	10

Date.	Train No.	Loads stock.	Other loads.	Empties.
3	X	26		
	X	27		
	X	16	6	1
	X	30		
	X	25		
	X	21	3	2
	52	1	23	1
	52		20	5
	X		21	15
4	60		30	
	#92		17	23
	62	22		
5	X		24	19
	50		19	1
	52		22	3
	X		13	24
	#92		20	12
	2-62	26		
6	52		25	2
	#92		22	18
	64	29		
	1-2-60	26		
	X	1	26	16
	60	28		
7	62	26	1	
	50	2	18	5
	#92		28	9
	60		32	6
	62		29	
	64		21	2
	52		26	
2493*d*				
8	#92		18	17
	X		24	8
	52		29	
	64		21	5
	60		28	3
	62	5	19	1
9	92		14	8
	50 & 1-32	2	18	2
	60		31	8
	50		23	2

Date.	Train No.	Loads stock.	Other loads.	Empties.
10	52		22	4
	52		21	7
	X	32		
	X	32		
	X	22	2	
	X	29		
	X	24		
	X	32		
	62	16	8	
11	#92		18	25
	60		39	15
	64	1	25	8
12	60		26	17
	50	1	20	4
	#92		21	12
	52		34	1
	62	29		
	62	30		
13	64	24		
	#92		12	18
	52	1	29	1
	X		20	
14	#92		17	11
	60		27	14
	64		30	3
	1-50	4	27	
	2-50		22	
	62	16	1	4
15	#92		17	18
	60		25	5
	64		28	3
	62	30		
	52	1	27	
	84	654	1402	754

#Local Train.

2493*e* Out of Freeport, 1st to 15th, 1904, Inclusive.

Number of trains carrying stock	28
Total number of cars stock	371
Average number of cars stock per train	13
Total number of other cars in stock trains	444
Total number of stock and other cars	815
Average number of stock and other cars per train	29
Number of trains without stock	45
Number of cars in trains without stock	1,533
Average number of cars per train without stock	34

2493*f* Illinois Central Railroad Company.

Office of the Car Accountant.

All Freight out of Freeport East Bound, October 1st to 15th, Inclusive, 1904.

Date.	Train No.	Loads stock.	Other loads.	Empties.
1	#92		28	5
	60		47	4
	64		32	2
	62	6	17	
	52		36	
2	60	20	11	1
	62	20	9	
	52	3	1	
	X		30	1
3	64		38	6
	X		36	7
	52		28	1
	#92		39	6
	X		32	3
4	#92		29	5
	64		43	10
	60		38	3
	52	2	25	2
	62	29		
	52	2	25	
5	#92		27	7
	X		28	5
	62	36		
6	#92		30	9
	64		26	2
	60		29	5
	62	29		
	52		34	

Date.	Train No.	Loads stock.	Other loads.	Empties.
7	#92	1	35	14
	60		40	2
	X	1	33	2
	64		27	9
	52		22	
	62	12	15	
8	#92		11	3
	52	1	22	1
	62	15	12	
	X		2	
	X		24	1
	64	2	12	
2493*g*				
9	60	27		
	52	1	33	2
10	#92		29	
	60		35	
	64		34	
	62	23	7	
	52		27	
	64	16	3	
	62	21	6	
11	#92		23	8
	X		22	6
	60		35	4
	X		30	
	52	1	22	1
12	52		28	
	60		40	3
	#92		24	8
	64		27	4
	62	33		
13	#92		24	10
	60		41	1
	62	28		
	64		29	5
	52		31	
14	#92		24	11
	64	2	23	10
	60		39	5
	52		28	
	62	25	4	

Date.	Train No.	Loads stock.	Other loads.	Empties.
15	#92	1	19	13
	64	1	27	1
	62	13	6	
	52		31	
	73	371	1764	213

#Local Train.

2493*h* Out of Fort Dodge, April 1st to 15th, Inclusive.

Number of trains carrying stock	33
Total number of cars stock	464
Average number of cars stock per train	14
Total number of other cars in stock trains	315
Total number of stock and other cars	779
Average number of stock and other cars per train	24
Number of trains without stock	55
Number of cars in trains without stock	1,619
Average number of cars per train without stock	29

2493*i* Illinois Central Railroad Company.

Office of the Car Accountant.

All Freight out of Ft. Dodge East Bound, April 1st to 15th, Inclusive, 1904.

Date.	Train No.	Loads stock.	Other loads.	Empties.
1	X			31
	1-52	5	16	
	50		16	2
	#94		11	31
	2-52		12	15
	X	3	12	2
2	#94		14	13
	X		6	29
	X	6	2	26
	52 & X		16	3
3	X	20	3	
	X		1	53
	72		21	9
	X	30		
	62 & 1-60	18	4	
	62 & 1-2-60	23		
	52	7	19	3
	X	30		

Date.	Train No.	Loads stock.	Other loads.	Empties.
4	50		8	3
	X		7	37
	X		3	30
	72		3	37
	X		8	29
	#94		9	41
5	X		9	33
	2-52		9	48
	#94		14	11
	X	21	5	
	1-51	1	15	2
	62	23		
6	#94		21	7
	X		9	26
	2-52		27	
	3-52		24	
	50	6	10	2
	1-52	15	6	
7	#94		13	23
	X		3	5
	2-50		10	26
	2-50	3	16	
	72		11	47
	1-50		11	9
	1-52	12	9	1
2493*j*				
8	X		9	4
	2-52		10	3
	50		18	
	#94		8	37
	X		14	14
	X		13	17
	X		8	4
	1-52	3	8	3
9	52	1	15	1
	X		3	2
	#94		8	28
10	X		1	42
	72		18	48
	2-62 & 62	14		
	60	30		
	X	30		
	X	19	1	3
	1-60 & X	30		
	X	30		
	52	7	21	2

Date.	Train No.	Loads stock.	Other loads.	Empties.
11	60		17	14
	#94		7	11
	50	1	16	
12	#94		12	24
	X		10	4
	X		11	9
	2-52		18	4
13	X		20	8
	62	30	7	
	1-52	11	9	2
	#94		3	17
	2-52		24	
	72		11	5
	X		23	
	1-52	3	19	1
14	#94		8	13
	X		16	5
	2-52		14	9
	60	12	11	1
	1-52	7	16	
15	#94		10	37
	X		3	22
	2-52		17	4
	1-52	9	13	
	50	4	13	
	88	464	902	1032

#Local Train.

2493*k* Out of Fort Dodge, October 1st to 15th, Inclusive.

Number of trains carrying stock	24
Total number of cars stock	195
Average number of cars stock per train	8
Total number of other cars in stock trains	451
Total number of stock and other cars	646
Average number of stock and other cars per train	27
Number of trains without stock	54
Number of Cars in trains without stock	1,638
Average number of cars per train without stock	30

2493*l* Illinois Central Railroad Company.

Office of the Car Accountant.

All Freight out of Ft. Dodge East Bound, October 1st to 15th, Inclusive, 1904.

Date.	Train No.	Loads stock.	Other loads.	Empties.
1	X		20	
	X		18	
	#94		22	10
	X		27	22
	1-52	2	27	
	2-52		22	
2	72		26	16
	60	19	12	
	X	10	11	8
	2-52	8	1	
	1-52	13	21	1
3	#94		34	16
	X		21	13
	X		19	
	X	2	16	1
4	#94		27	12
	72		22	3
	X		19	23
	52	1	27	2
	X		23	
	X		19	
5	#94		18	20
	1-52	22	4	
	2-52		26	
	72		28	
	X		24	
6	#94		22	17
	72	2	25	3
	X		30	
	52	6	25	
	X		17	
	X		19	
7	#94		22	4
	X		19	14
	72		29	
	2-52	5	19	
	1-52	8	17	1
	X		20	

Date.	Train No.	Loads stock.	Other loads.	Empties.
8	2-52		20	1
	X		20	
	#94		22	12
	72		29	16
	X		27	12
	1-52	6	22	2
2493*m*				
9	62	23	4	1
	60	10	11	6
	52	6	21	1
	X		29	21
10	#94		29	22
	X		22	8
	72		20	16
	X		27	11
	52	1	28	1
11	X		21	
	#94		19	9
	X & 2-52		26	6
	52 & 1-52	9	23	
12	72		32	2
	52	13	19	
	#94		21	15
	X		14	15
	X		18	
13	#94		18	6
	72		23	20
	2-52		20	6
	X		20	6
	1-52	14	18	
14	94		10	14
	X		20	
	X		21	11
	1-72		19	2
	1-52	9	17	
	2-52	2	15	
15	#94		14	12
	X		23	18
	X	1	22	1
	X		27	3
	52	3	18	
	78	195	1627	462

2494 the chute as I load. My cattle weigh at Chicago from 22,000 to 24,000 pounds."

(The said affidavit is marked "Complainant's General Exhibit No. 4.")

From the original record I desire to offer in evidence the letter admitted in evidence by the Commission from President Stickney of the Great Western Railroad to his stockholders written upon the occasion of the making of the contract with the packers which has been alluded to heretofore and, explanatory of that contract, I desire to introduce that without taking the time to read it, and I have a copy of the letter that was printed in the Railway Age and that will save the expense of copying it out of the record. I now file that.

Mr. LYNDE: I am not authorized, of course, to speak for Mr. Severance, but in view of his statement here the other night, I think it would be only proper to call the Court's attention to the fact that he did not make special objections in reference to that matter.

The COURT: That will go in over his objection.

Mr. LYNDE: I want to have special attention called to the fact that he had suggested that he had special objections.

The COURT: Do you remember what his special objection was?

2494*a* GEN. EXHIBIT NO. 4.

R. J. G. Martin, of St. Charles, Iowa, live stock raiser, farmer and shipper of live stock, on my oath testify that I ship about 200 cars of live stock, some to Chicago, the principal to Des Moines and St. Joseph, Missouri. I invariably furnish the bedding for the cars at my own expense. This applies to the Rock Island, the Burlington and the Great Western Railroads. The bedding after the cattle are unloaded will weigh about 800 pounds. They do not furnish me with clean cars in the winter time not more than one out of ten and in the summer one out of five. They usually run us about 20 miles an hour from thirty to 45 cars to the train. With the exception of the car put at the *shoot* when they set them I pinch the cars to the *shoot* as I load. My cattle weigh at Chicago from 22,000 to 24,000.

J. G. MARTIN.

Subscribed and sworn to before me this twenty-ninth day of September, A. D. Nineteen hundred and five.

MARSHALL E. SAMPSELL,
Clerk of U. S. Cir. Court, Nor. Dist. of Ill.

2494*b* GEN. EX. 5.

Statements from Record Before the Commission in this Case.

Exhibit 4 is the annual report of the C. M. & St. P. Ry. Co. for the year ending June 30th, 1902, and on pages 11 and 12 it is stated that the amount of capital stock per mile of road is $15,879.57 and the funded debt per mile of road is $18,897.54, a total per mile of $34,777.11.

On pages 7 and 21 the income for the fiscal year is shown, as follows:

Gross earnings	$45,613,124.84
Net earnings and income	15,850,544.48
Interest on bonds	6,210,086.11
Dividends at 7 per cent. on preferred and 6 per cent. on common stock	6,584,619.00
Balance	3,055,839.37
Improvements and additions to property, including amount credited to renewal and improvement fund (p. 17 exhibit 4) charged to operating expense	3,705,800.94
Actual surplus during the year	6,761,640.31

The actual surplus was 14.8 per cent. of the gross earnings. The earnings on both the preferred and common stock was 12.7 per cent. and the earnings on the common stock, after payment of 7 per cent. on the preferred stock, were equal to 17.5 per cent.

During year ending June 30, 1901, the C. M. & St. P. Ry. Co. earned on its common stock, after payment of 7 per cent. on its preferred stock, 15.2 per cent. (exhibit 28) and during year ending June 30, 1900, the C. M. & St. P. Ry. earned on its common stock, after payment of 7 per cent. on the preferred stock, 15.6 per cent.

2494*c* References to pages 17 and 18 of exhibit 4 and page 18 of exhibit 28 indicates the policy of the C. M. & St. P. Ry. regarding the making of permanent improvements and additions and including them in operating expenses. During the year 1901 the amount thus charged into operating expenses was $3,152,980.45, which added to the surplus as shown on page 23 of exhibit 28 would give an actual surplus of $5,891,956.03.

The credit balance (income account) on June 30, 1902, was $20,682,068.61 (exhibit 4, p. 21).

The credit balance (income account) on June 30, 1905, was $31,185,001.59. (See annual report of C. M. & St. P. Ry. for the year ending June 30, 1905, in evidence.)

This shows an increase over the year ending June 30, 1902, of $10,502,932.98. In addition to this growth of the income account the C. M. & St. P. Ry., as has been their custom, has made betterments and additions to its property aggregating $5,000,000, which have been charged to operating expenses. Extraordinary — and renewals have been made, and for these reasons the immense increase in income account as shown in the annual report does not

by any means reflect the net earnings of that company. This is true of the other defendant companies.

Exhibit 27, annual report of the C. & N. W. Ry. Co. for the year ending May 31, 1902, shows on pages 5 and 6:

2494*d* Gross earnings	$46,644,121.49
Operating expenses and taxes	30,005,642.77
Net earnings	16,638,478.72
Income from investment	577,080.00
Total income	17,215,558.72
Interest on bonds	6,406,038.08
Available for dividends	10,809,520.64
Dividends of 8 per cent. on preferred and 7 per cent. on common stock	4,529,468.00
Surplus	6,280,052.64
Paid out of surplus for Minnesota Western Ry. and for permanent improvements	4,697,055.04
Sinking fund and anticipated interest	234,695.44
Balance	1,348,302.16

Surplus for the year is 13.2 per cent. of gross earnings. After payment of 8 per cent. on preferred stock the common stock earned 23 per cent. and the preferred and common stock both earned at the rate of 17.56 per cent.

The C. & N. W. Ry. is bonded for $27,000 per mile and has issued $11,000 stock per mile, a total of $38,000 per mile.

According to the C. & N. W. Ry. annual reports for the years ending May 31, the surplus, after payment of all fixed charges and dividends, and exclusive of any sinking funds charged out of net earnings, are:

1897	$1,171,970.84
1898	2,235,322.59
1899	3,635,325.97
1900	6,147,160.49
1901	5,906,893.30
1902	6,045,357.20
Total for five years	25,142,030.39

In the surplus for the years 1900, 1901 and 1902 is included the amounts expended for new lines or construction and for permanent additions to the property paid out of the income.

2494*e* Exhibit 26 is the annual report of the C. R. I. & P. Ry. Company for the year ending March 31, 1902, and on page 5 the following items appear:

Gross earnings from operation	$28,385,845.81
Net income	11,079,969.25
Payment for rentals, interest on bonded debt and dividends	6,106,928.62
Surplus	4,973,040.63

The surplus is 17.5 per cent. of the gross earnings and the earnings on the common stock amounted to 12.87 per cent. At the time of the last annual report the C. R. I. & P. Ry. had issued $18,300 stock per mile, and was bonded at $22,000 per mile, a total of $40,300 per mile, an increase of $3,000 per mile over preceding year. Since then, by means of a reorganization, each $100 of old stock has been converted into $270 of new securities, thus adjusting the indebtedness so as to absorb the increased earnings, which the management manifestly believed were to be permanent.

The annual reports of the C. R. I. & P. Ry. for the years ending March 31st show surplus as follows:

Year.	Surplus.
1898	$1,937,179.17
1899	1,812,728.03
1900	2,462,475.12
1901	3,097,325.01
1902	4,973,040.63
Total for five years	14,282,747.96

The annual report of the Illinois Central Railroad Company for the year ending June 30, 1902, pages 4 and 11, shows that permanent improvements to the amount of $4,340,172.08 were defrayed out of the current income, and that after payments for in-
2494*f* terest, dividends, sinking funds, etc., there was a surplus of $1,132,446.92.

Exhibit No. 5, Chicago Great Western Ry. Co. annual report for the year 1902, page 11, shows outstanding securities to the amount of $68,570,674 equal on 929 miles to $73,600 per mile of road. The debenture stock and the preferred stock A are equal to $38,300 per mile, and during the fiscal year there was paid 4 per cent. on the debenture stock and 5 per cent. on the preferred stock A. The debenture stock outstanding of $24,327,089 is equal to $26,200 per mile and this amount probably amply covers the present value or the actual money invested in the property. Allowing for payment of 4 per cent. on the debenture stock, the balance for payment on the other issues would be $589,645.45, and this amount should be really considered as a surplus.

The Burlington, Cedar Rapids and Northern Railway Co. carried a total railway capitalization of about $19,000 per mile (see 14th annual statistical report of the I. C. C.), and that amount undoubtedly covered all the money ever invested in that property.

In the annual report of the Illinois Central Railroad for the year ending June 30, 1902, page 3, will be found official estimated figures of the cost of construction of certain new branches and extensions. One branch of 18 miles is estimated to cost $300,000, or $16,666 per mile; another branch of 20.5 miles is estimated to cost $485,614, or $23,700 per mile.

2494*g* Exhibit 27, page 20, shows that the entire cost of the Minnesota Western Railway, built in the interest of the C. & N. W. Ry., 45.82 miles in length, was $497,353.64, less than

$11,000 per mile. In the same annual report, page 21, appears the following: "For cost of constructing an extension from Sargent's Bluffs to Moville, Iowa (about 20 miles) including cost of equipment, $500,000, or $25,000 per mile.

In exhibit 28, which is thirty-seventh annual report of the C. M. & St. P. Ry. Co. for year ending June 30, 1901, pages 8 and 9, the cost of certain extensions and new lines is given. The total amount of new mileage constructed was 284.14 miles, at a total cost of $6,135,284.29, or $21,592 per mile. It is not stated whether this amount includes the necessary equipment; presumably it does. If it does not then $5,000 or $6,000 per mile would furnish ample equipment.

The tenth annual report of the Railroad Commission of Texas for the year 1901, pages 24 and 25, shows the value of the railroad property in the State of Texas, as ascertained by the Railroad Commission of Texas, to be $15,863 per mile, and on that valuation the roads earned during the year 11.43 per cent.

The following is an extract from the annual report of the C. M. & St. P. Ry. for the year ending June 30, 1904, now in evidence, showing the cost of construction of a portion of the line in Wisconsin:

"A portion of the line of the Marinette, Tomahawk & Western Ry., extending south from Gleason, Wis., a distance of 12.60
2494*h* miles, with a spur track extending northerly 6.65 miles, costing together $150,000.00, was purchased during the year, and a connection of this line with the main line of the Wisconsin Valley Division has been formed by the construction of a line from Otis to Gleason, a distance of 11.16 miles, at a cost of $71,596.48."

2494*i* *Extract from Annual Report of C., M. & St. P. Ry. for Year Ending June 30, 1904.*

Number of tons of revenue freight carried	21,267,370
Expenses of station service	$2,511,282.76
Station supplies	201,658.79
Total	$2,712,941.55

Equal to 12.8 cents per ton.

On cars loaded at 13,297 tons, which is the average revenue load of all loaded cars on C. M. & St. P. Ry., the expense would be $1.70 per car, and on cars of 60,000 lbs. paying weight would amount to $3.84 per car.

C. & N. W. Ry.

Figures Taken from Annual Report for Year Ending June 30, 1904.

Gross earnings	$53,334,633.86	
Income from investment	553,435.00	
Total	$53,888,068.86	
		Percentage.
Operating expenses	$35,389,303.96	65.9
Taxes	1,837,805.33	
Fixed charges	7,035,718.26	
Sinking fund	225,500.00	34.1
Dividends	5,174,924.00	
Expenditures for permanent improvements	4,000,000.00	100.

Classification of operating expenses:		Percentage.
Operating expenses	$35,389,303.96	100.
Maintenance of way and structures	7,166,308.14	20.2
Maintenance of equipment	5,509,734.16	15.5
Conducting transportation	21,654,456.35	61.1
General expenses	1,058,805.31	3.

2494*j* From C. G. W. Ry. Co. Annual Report for 1902 and 1903.

Locomotive Statement for the Years Ending June 30, 1902, *and June* 30, 1903.

	1902.	1903.	Increase.	Decrease.
Number of miles run by engines:				
On passenger trains	2,374153	2,478695	104542	
On freight trains	3,575763	3,284694	.....	291069
On work trains	242987	301004	58017	
On switch trains	858773	850410	.....	8363
Total number of miles run.	7,051676	6,914803	162559	299432
Service:				
Pounds of waste	63886	73004	9208	
Pints of oil.	712440	857040	144600	
Cords of wood	2249	1970	.. ..	279
Tons of coal	542161	426348	.....	15813
Cost per mile run:				
Oil, waste and supplies (cts.)	.51	.66	.15	
Wood and coal (cts.)	11.74	12.71	.97	
Wages, engineers, firemen and dispatchers (cts.)	8.04	8.43	.39	
Maintenance and repairs (cts.)	5.59	7.27	1.68	
Total cost per mile run (cts.)	25.88	29.07	3.19	
Cost per 1,000 ton miles (gross):				
Oil, waste and supplies (cts.)	1.06	1.26	.20	
Wood and coal (cts.)	24.55	24.56	.01	
Wages, engineers, firemen and dispatchers (cts.)	16.85	16.29	.....	.56
Maintenance and repairs (cts.)	11.72	14.06	2.34	
Total cost per 1000 ton mile-(cts.)	54.18	56.17	2.55	.56
Average of miles:				
To pint of oil all kinds (miles)	9.90	8.06	.....	1.84
To pound of waste (miles)	110.34	94.60	.....	15.78
To ton of coal (miles)	15.05	15.15	.10	

2494*jj* *Table Showing Increase in Volume of Traffic A., T. & S. F. System.*

(See printed Annual Reports, fiscal years, 1902, p. 11; 1903, p. 15.)

(No company freight included.)	1901.	1902.	Per c't incr'e.	1903.	Per c't incr's.
Average tons freight per loaded car, mile	12.60	13.68	8.57	14.15	3.44
Average tons freight per freight train mile	242.67	247.51	1.99	279.67	12.99
Average freight revenue per train mile	$2.44	$2.53	3.69	$2.65	4.74
Average passenger revenue per train mile	$1.20	$1.04	4.20	$1.03	0.96 dec.
Average total revenue per passenger train mile	$1.26	$1.28	1.59	$1.29	0.78
Tons revenue freight carried one mile, increased	.....	354955176	9.16	473792445	11.20
Freight car mileage increased miles	.....	13978360	3.25	23525926	5.30
Freight train mileage increased miles	.....	559,803	3.50	290,421	1.76
Number of passengers carried one mile, increased	.....	93,633,535	18.22	5,405,773	0.90
Passenger carr mileageincreased	....	8,793,460	13.24	2,081,582	2.77
Passenger train mileage increased	.....	1,367,589	10.85	174,320	1.35
Operating expenses, per cent. to gross earnings	59.23	57.34	....	61.65	

NOTE.—The increase in operating expenses due to permanent improvement in maintenance of way and structures for the year 1903 of $3,265,426 over the same item for 1902, accounts for the increase in the percentage of operating expenses to gross earnings.

2494*k* From C. & N. W. Printed Annual Reports, 1901, 1902, 1903.

General Summary of Operations.

	1901.	1902.	1903.
Gross earnings per mile	$7,825.92	$8,098.49	$7,871.40
Operating expenses and taxes per mile	4,944.47	5,209.67	5,252.59
Net earnings per mile	2,881.45	2,888.82	2,618.81
Number of passengers carried	16,944,372	18,648,845	20,152,311
Number of passengers carried one mile	483,273,248	541,676,123	602,594,208
Average rate per passenger per mile	2.01 cts.	2.01 cts.	2 cts.
Average number of passengers carried per train per mile run	39.66	39.17	
Average number of passengers carried per passenger car per mile run	11.02	11.10	
Average approximate earnings per mile run by passenger trains	95 cts.	94 cts.	99 cts.
Number of tons of revenue freight carried	25,271,726	29,321,538	30,450,955
Number of tons of revenue freight carried one mile	3701417722	4122440480	4029840841
Average rate per ton per mile	.85 cts.	.81 cts.	.87 cts.
Av. number of tons of revenue freight carried per train per mile run	232.37	249.65	231.78
Av. number of tons of revenue freight carried per loaded car per mile run	13.54	14.	13.06
Average approximate earnings per mile run by freight trains	$1.98	$2.03	$2.03
Total mileage of engines	41,323,805	43,953,894	46,611,762
Repairs and supplies for engines and tenders per mile run	3.76 cts.	4.23 cts.	4.15 cts.
Engineers, firemen, wipers, etc., per mile run	7.60 cts.	7.67 cts.	8.10 cts.
Cost of oil, waste and tallow per mile run	.28 cts.	.26 cts.	.30 cts.
Cost of fuel per mile run	8.39 cts.	8.32 cts.	9.27 cts.
Total cost per mile run by engines	20.03 cts.	20.48 cts.	21.82 cts.

2494*l* Fuel:

Coal consumed (all purposes) tons	2,170,293	2,340,255	2,652,550
Wood consumed (all purposes), cords. ...	14,324	15,775	18,955
Average cost per ton of coal consumed...	$1.71	$1.68	$1.72
Average cost per cord of wood consumed..	$2.48	$2.57	$2.71
Locomotive coal on hand, tons	68,698	115,679	122,081
Long wood on hand, cords	7,563	6,842	5,173
Short wood on hand, cords	7,007	6,232	6,731

2495 Mr. LYNDE: His statement there was that Mr. Stickney was called as a witness, and your Honor said—If I remember correctly, your Honor rules with him.

The COURT: Not as to that.

Mr. LYNDE: That he was here as a witness on the stand?

The COURT: That was without the reading of the letter, that was another proposition, and that was talked about at another time.

Mr. LYNDE: Yes, as I understand it.

The COURT: I guess you had better let this go till Mr. Severance comes back.

Mr. COWAN: Well, the letter was not the matter under discussion. I stated while he was here that I proposed to read it.

The COURT: As long as he has special objections to that, I think you had better wait till he comes back. I understand that the point about that letter is that counsel claims that it tends to show that these rates were not fixed by competition. If that is true, it seems to me it might be material.

Mr. COWAN: Well, I think there can be no question that the letter as admitted by the Commission, is admissible here. If the court desires to have the letter, the complainant offers it. I think it is clearly admissible.

The COURT: Well, I won't pass on that till I hear from —.

2496 Mr. COWAN: We make the formal offer of the annual reports for the year 1902 of the Chicago Great Western Railroad, Chicago Rock Island & Pacific, and Chicago & North-Western Railroad, which are in the original records in printed form. I think we can supply copies of them by requesting them from counsel so that they will be introduced formally if they are not in the exhibits that have been offered by Mr. Tomlinson. Some of them are and some are not, but, for the purpose of showing statistical data that we desire to call special attention to, we offer them and a statement copied from those annual reports containing certain figures respecting the earnings and operating expenses and certain operating statistics copied from those reports as General Exhibit No. 5. Those are just copies that are made from the pages indicated in the annual report and as we have them filed, the printed reports, it will simply be a duplication of that part of the report.

(The statement referred to and offered in evidence is marked "General Exhibit No. 5.")

Mr. BAXTER: On the Chicago Rock Island & Pacific Road, what report do you offer?

Mr. COWAN: For the year 1902. That is on file in the Commission's Report, and I will have to request a printed copy in order that I may file it in this case, and counsel,

2496a GENL. EX. 6.

Extracts from the Testimony of Mr. A. C. Bird, before the Interstate Commerce Commission in the case of the Chicago Live Stock Exchange *vs.* the Chicago Great Western Railway *et al.*, at the hearing held at Chicago, November 6, 7, 8, 1902, appearing on pages of the record as indicated.

Pages 32 and 33.

Mr. TOMLINSON: What is the general practice in the making of rates on raw articles as compared with the finished product?

Mr. BIRD: Except when the raw article is a live animal the proposition is generally to make the rate on raw material less, if possible, if circumstances require it. As a general theory it is less on the raw material. I should say as a general principle it is less than on a manufactured article.

Mr. TOMLINSON: You say there is an exception so far as live stock is concerned?

Mr. BIRD: There seems to be at the present time.

Mr. TOMLINSON: How are your rates adjusted between, for example, points west of the Missouri River or points east of there except the particular traffic between the Missouri River and Chicago? In other words, is there any other instance in rates prevailing in any territory in this country where the rate on live stock is more than on the finished product except between the Missouri River and Chicago and St. Paul and Chicago?

2496b Mr. BIRD: And St. Louis, I suppose. I do not know of any cases except on shipments from Missouri River points and from South St Paul.

Page 34.

Mr. TOMLINSON: Is it not almost universal that the rates on fresh meat are higher than on packing house products except between the Missouri River and Chicago?

Mr. BIRD: I think that the rates on fresh meats are greater generally than on packing house products except from Missouri River points and from South St. Paul.

Pages 104, 105, 106, 107.

Commissioner PROUTY: It seems that the rate on live stock and packing house products has ordinarily been the same from most points on the Missouri River to Chicago; that is, the tariff has.

Mr. BIRD: That has been the case since this early contract that I spoke of a while ago. At the beginning of the fresh meat shipment from Omaha to Chicago the rate on fresh meat was 148 per cent. of the average rate received on live stock coming out of Nebraska. In other words, whatever the average rate was from Omaha to Chicago on Nebraska stock, that was taken as the basis for the original

dressed beef rate from Omaha to Chicago—148 per cent.,—and that continued more or less—it is a fact—for a number of years,
2496c until the business increased; a number of packers located there and increased the competition there and at Southwestern Missouri River points, and it culminated a good many years ago in the contract made by the Chicago & Alton with one of the packers at Kansas City. I do not remember what that contract was, but it contained a minimum rate of 15 cents, and the maximum rate was less than 23½ cents; but when the full effect of what was known upon traffic, something was done. I cannot recall all the details, but a compromise was made, under which the packers accepted a maximum rate of 23½ cents. Whether that was about the time of the decision of this Commission in the Chicago & Alton case in 1890 I am not clear; I think that it was the time the compromise was made. At any rate, it had the effect of reducing the rate on the live animal as well as on the product, and being put so low it seemed inexpedient to attempt to make a difference between the two articles at that time, because it had been reduced so much.

Commissioner PROUTY: Now, it seems that the rate at St. Paul, the rate on live stock, has always been higher on live stock than on the product.

Mr. BIRD: That is a harder matter——

Commissioner PROUTY: My question is this: Why have you not made the rate the same from St. Paul, while it has been the same from Missouri River points?

Mr. BIRD: Because of various conferences and negotiations with the Commission of Minnesota.

2496d Commissioner PROUTY: Just explain, if you can, how the Commission of Minnesota produces any effect on the relative live stock rate from St. Paul to Chicago?

Mr. BIRD: There was a disposition on the part of that Commission to foster as far as it could lawfully do so the industry at South St. Paul—the packing industry. A rate reduction on live stock from South St. Paul to Chicago would in their opinion have carried with it at least a maximum throughout that part of Southern and Southeastern Minnesota which would be intermediate on the route to Chicago by any line; so that the rate, if reduced from St. Paul to Chicago on live stock, would be probably reduced from some points in Southern Minnesota. Then the result would have been that the St. Paul packer, taking his live stock out of Southern Minnesota to St. Paul, would have to pay that local rate, whatever it was, to St. Paul, plus the provision rate back, and it would embarrass the production of provisions at that point; and at one time it was generally suggested, or urged, that if the rates on live stock were reduced from South St. Paul, it would call for a general reduction of local maximum rates of the State, not only applying in that corner which would be affected by any order of this Commission, but it would be a State affair, that would apply throughout the entire State. Now, we had discussions on that subject with various representatives of the Commission at various times, and it did not seem a proper time

to make that reduction or any change of the live stock rate from South St. Paul to Chicago.

2496*e* Page 267.

Mr. BIRD: * * * Theoretically, to make a tariff on every article that we carry and put each article in its proper relation to the others, while it is very difficult, you would naturally put a greater tax on articles of high value and of greater concentration than on the coarser articles; and if it were left to my judgment and decision, free from all competitive force, I would put a higher rate on dressed meat than on cattle.

Page 280.

Mr. TOMLINSON: You said a few moments ago that under ideal conditions that you would make the rate on fresh meat higher than on live stock. For what reason would you make it higher than on live stock?

Mr. BIRD: Simply because the relative values ought to be taken into account, not literally, but to some extent, and because of concentration of values should pay something more than that which is less concentrated.

Mr. TOMLINSON: Is that the only reason?

Mr. BIRD: I believe the tariff should be made on the basis of what the traffic will bear.

2496*f* Basis of Rates Applicable in Central Freight Association Territory on Hogs, Cattle, Calves, and Sheep, Except Where Commodity Rates Apply.

Distance—miles.	Rate—cents per 100 pounds.
5	4
10	4½
15	5
20	5
25	5½
30	6
35	6½
40	7
45	7½
50	7½
55	7½
60	7½
65	7½
70	8
75	8
80	8½
85	8½
90	9
95	9

Distance—miles.	Rate—cents per 100 pounds.
100	9
110	9
120	9½
130	10
140	10
150	10½
160	11
170	11
180	11½
190	11½
200	12
210	12½
220	13
230	13
240	13
250	13½
275	14
300	14½
325	15
350	15½
375	16½
400	17
425	17½
450	18

2496*g* Schedule of Reasonable Maximum Rates of Charges for the Transportation of Live Stock in the State of Illinois for the Distances Indicated, as Published by the Railroad and Warehouse Commission of the State of Illinois.

Distances.	Cattle.	Hogs.
5 miles.....	5.	5.5
10 "	5.5	6.2
15 "	6.	7.
20 "	6.2	7.5
25 "	6.5	8.
30 "	6.7	8.
35 "	7.	9.
40 "	7.2	9.3
45 "	7.5	9.6
50 "	7.7	10.
55 "	7.9	10.4
60 "	8.1	10.7
65 "	8.3	11.1
70 "	8.5	11.5
75 "	8.7	11.8
80 "	8.9	12.1
85 "	9.	12.3
90 "	9.2	12.5

Distances.	Cattle.	Hogs.
95 "	9.3	12.7
100 "	9.5	13.
105 "	9.6	13.2
110 "	9.7	13.4
115 "	9.8	13.5
120 "	10.	13.7
125 "	10.1	13.8
130 "	10.2	14.
135 "	10.4	14.2
140 "	10.5	14.3
145 "	10.6	14.5
150 "	10.8	14.7
155 "	10.9	14.9
160 "	11.	15.
165 "	11.1	15.2
170 "	11.3	15.3
175 "	11.4	15.5
180 "	11.5	15.7
185 "	11.7	15.9
190 "	11.8	16.1
195 "	11.9	16.3
200 "	12.1	16.5
210 "	12.3	16.6
220 "	12.6	16.8
230 "	12.8	16.9
240 "	13.1	17.1
250 "	13.4	17.2
260 "	13.6	17.4
270 "	13.9	17.6
280 "	14.1	17.7
290 "	14.4	17.9
300 "	14.7	18.
320 "	15.	18.4
340 "	15.4	18.8
360 "	15.7	19.2
380 "	16.1	19.6
400 "	16.5	20.
420 "	16.8	20.4
440 "	17.2	20.8
460 "	17.5	21.2
480 "	17.9	21.6
500 "	18.3	22.

2496*h* Schedule of Reasonable Maximum Rates of Charges on Live Stock in the State of Iowa, for the Distances Indicated, as Published by the Railroad Commission of the State of Iowa.

Distances—miles.	Cattle.	Hogs (cents per 100 lbs.).
5	5.13	5.67
10	5.53	6.
15	5.92	6.33
20	6.32	6.67
25	6.71	7.
30	7.11	7.33
35	7.5	7.67
40	7.89	8
45	8.29	8.33
50	8.68	8.67
55	8.95	9
60	9.21	9.33
65	9.47	9.67
70	9.74	10
75	10	10.16
80	10.26	10.32
85	10.53	10.48
90	10.79	10.64
95	11.05	10.8
100	11.32	10.96
105	11.53	11.12
110	11.74	11.28
115	11.95	11.44
120	12.16	11.6
125	12.37	11.8
130	12.58	12
135	12.79	12.2
140	13	12.4
145	13.21	12.6
150	13.42	12.8
155	13.63	13
160	13.84	13.2
165	14.05	13.4
170	14.26	13.6
175	14.47	13.8
180	14.68	14
185	14.89	14.2
190	15.11	14.4
195	15.32	14.6
200	15.33	14.8
210	16	15.22
220	16.47	15.64
230	16.95	16.06
240	17.42	16.48

Distances—miles.	Cattle.	Hogs (cents per 100 lbs.).
250	17.89	16.9
260	18.37	17.32
270	18.84	17.74
280	19.32	18.16
290	19.79	18.58
300	20.26	19
310	20.53	19.13
320	20.79	19.25
330	21.05	19.37
340	21.32	19.5
350	21.58	19.62
360	21.82	19.75
370	22.11	19.87
380	22.37	20
390	22.63	20.5
400	22.89	21
410	23.15	21.12
420	23.41	21.25
430	23.67	21.37
440	23.93	21.5
450	24.19	21.62
460	24.45	21.75
470	24.71	21.87
480	24.97	22
490	25.23	22.12
500	25.49	22.25

2496*i* 1902.

Tenth Annual Report of the Chicago Great Western Railway Company for the Fiscal Year Ending June 30, 1902.

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2496*k* Chicago Great Western Railway Company.

Tenth Annual Report for the Fiscal Year Ending June 30, 1902.

To the Shareholders:

The Directors submit the following report:

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2496*l* TABLE VIII.—*Statistics.*

	Year ending June 30th—		
	1900.	1901.	1902.
Miles of railroad operated	929.51	929 51	929.51
Earnings—			
Freight	$5,128,658.75	$5,312,771.33	$5,549,808.18
Passenger	1,359,907.72	1,452,138.76	1,673,398.59
Mail	111,527.69	111,501.52	111,416.56
Express	86,323.79	90,182.97	96,786.24
Miscellaneous	34,619.11	29,876.55	37,054.73
Surplus of proprietary lines		17,390.56	81,224.34
Gross earnings	$6,721,037.06	$7,013,861.69	$7,549,688.64
Operating expenses	4,490,223.01	4,831,515.48	5,284,690.25
Net earnings	$2,230,814.05	$2,182,346.21	$2,264,998.39
Gross earnings per mile	$7,230.73	$7,545.76	$8,122.22
Operating expenses per mile	4,830.74	5,197.92	5,685.46
Net earnings per mile	2,399 99	2,347.84	2,436.76
Expenses to earnings, per cent	66.81	68.88	69.99
Total number tons freight carried	2,340,965	2,651,054	2,753,675
Average amount received for each ton carried	2.17	2.03	2.01
Average distance each ton was carried, miles	301.68	314.52	292.19
Number of tons of freight carried one mile	706,924,174	833,799,170	804,613,173
Average ton miles per mile of railway	760,542	897.031	865,632
Average rate per ton per mile, in cents	0.72	0.64	0.69
Total number passengers carried	1,363,785	1,493,609	1,716,083
Passengers carried one mile	61,255,609	66,052,117	75,768,267
Average passenger miles per mile of railway	65,901	71,061	81,514
Average rate per passenger per mile in cents	2.03	2.01	2.05
Average amount received from each passenger, cents	91.23	89.25	90.43
Average distance traveled by each passenger, miles	44.91	44.22	44.15
Number miles run by freight trains	2,707,988	2,663,964	2,766,115
Average earnings per freight train mile	$1.89	$1.99	$2.00
Number miles run by passenger trains	2,076,461	2,191,819	2,367,481
Average earnings per passenger train mile, cents	75.0	75.4	79.5
Number miles run by work trains	151,211	133,414	242,987
Total mileage of freight cars loaded and empty	66,316,601	70,937,912	77,509,884
Total mileage of passenger cars	9,033,371	9,630,265	10,456,422
Total number of miles run by engines	6,201,774	6,577,583	7,051,676
Total cost per mile run of engines, including repairs, cents	21.80	23.23	25.92
Total cost of engine service, including wages, fuel, supplies and repairs per 1,000 gross tons (car and loads), hauled one mile, cents	52.32	48.05	54.18

W. B. BEND, *Auditor.*

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2496*m* May 31, 1902.

Annual Report of the Chicago & North Western Railway Company for the Forty-third Fiscal Year.

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2496*n* May 31, 1902.

Annual Report of the Chicago and North Western Railway Company for the Forty-third Fiscal Year Ending May 31, 1902.

The results of the operations of the Chicago & North Western Railway Company for the fiscal year ending May 31, 1902, are as follows:

Average number of miles operated, $5,759\frac{61}{100}$.

Gross Earnings:		
From Passengers	$10,886,139 15	
From Freight	33,436,891 72	
From Express, Mail and Miscellaneous	2,321,090 62	
Total Gross Earnings		$46,644,121 49
Operating Expenses and Taxes:		
Operating Expenses ($61\frac{33}{100}$ per cent. of Gross Earnings)	$28,596,401 33	
Taxes	1,353,111 31	
Revenue Tax Stamps	56,130 13	
		30,005,642 77
Net Earnings, carried forward		$16,638,478 72

2496*o*

Brought forward		$16,638,478 72
Other Payments:		
Interest on Bonds and Interest	$6,406,038 08	

(NOTE.—This is the net amount after the usual deductions for dividends received on C. St. P. M. & O. Ry. preferred and common stock.)

Amount of expenditures for construction deducted from surplus Net Earnings for the year by authority of the Board of Directors, viz:

Cost of Minnesota Western Railway	$497,353 64	
Cost of Improvements and Permanent Additions to the Property, as see statement elsewhere	4,199,701 40	
		4,697,055 04

Sinking Funds	225,500 00	
Interest paid in advance of maturity on bonds taken up and funded into 3½ per cent. General Mortgage Gold Bonds of 1987	9,195 44	
		11,337,788 56
		$5,300,690 16
Add Income from Investments		577,080 00
		$5,877,770 16
Dividends		4,529,468 00
Net Income over all charges for the year		$1,348,302 16
As Compared with the Preceding Year:		
Passenger Earnings increased	$1,167,948 28	
Freight Earnings increased	2,071,946 32	
Express, Mail and Miscellaneous Earnings increased	305,639 78	
Increase in Earnings		$3,545,534 38
Operating Expenses increased	$2,744,711 98	
Taxes and Revenue Tax Stamps increased	30,932 37	
Increase in Operating Expenses and Taxes		2,775,644 35
Increase in Net Earnings		$769,890 03

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2496*p* For the year ending May 31, 1902, the total Operating Expenses of the Company were $28,596,401.33; of this amount $6,098,358.82, or 21.33 per cent., was for expenditures pertaining to the Maintenance of Way and Structures. Included in these expenditures is the cost of 43,618 tons of steel rails laid in replacement of rails of lighter weight in 361 34 miles of track.

The expenditures on account of Maintenance of Way and Structures also include the cost of laying 1,620,222 new ties, the cost of ballasting 4.77 miles of track with crushed stone, 393.21 miles with gravel, and 21.36 miles with cinders and slag. During the year 150 new steel bridges on masonry, aggregating 5,864 feet in length and containing 3,225 tons of bridge metal, were erected in replacement of wooden structures; other wooden structures were replaced with masonry arch and box culverts and cast iron pipes, and the openings filled with earth. The wooden structures replaced by permanent work during the year, exclusive of those replaced in connection with the construction of second main tracks, aggregate 4,329 feet in length.

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2496q *General Summary of Operations.*

Fiscal year ending May 31, 1901.		Fiscal year ending May 31, 1902.
$7,825 92	Gross Earnings per mile	$8,098 49
4,944 47	Operating Expenses and Taxes per mile	5,209 67
2,881 45	Net Earnings per mile	2,888 82
16,944,372	Number of Passengers carried	18,648,845
483,273,248	Number of Passengers carried one mile	541,676,123
2 01/100 cents	Average Rate per Passenger per mile	2 01/100 cents
39 66/100	Average Number of Passengers carried per train per mile run	39 17/100
11 02/100	Average number of Passengers carried per passenger car per mile run	11 10/100
95 cents	Average Approximate Earnings per mile run by passenger trains	94 cents
25,271,726	Number of Tons of Revenue Freight carried	29,321,538
3,701,417,722	Number of Tons of Revenue Freight carried one mile	4,122,440,480
85/100 cents	Average Rate per Ton per mile	81/100 cents
232 37/100	Average Number of Tons of Revenue Freight carried per train per mile run	249 65/100
13 54/100	Average Number of Tons of Revenue Freight carried per loaded car per mile run	14 00/100
$1 98	Average Approximate Earnings per mile run by freight trains	$2 03
41,323,805	Total Mileage of Engines	43,953,894
3 76/100 cents	Repairs and Supplies for Engines and Tenders per mile run	4 23/100 cents
7 60/100 "	Engineers, Firemen, Wipers, etc., per mile run	7 67/100 "
28/100 "	Cost of Oil, Waste and Tallow per mile run	26/100 "
8 39/100 "	Cost of Fuel per mile run	8 32/100 "
20 03/100 "	Total Cost per mile run by Engines	20 48/100 "
	Fuel.	
2,170,293	Coal consumed (all purposes), Tons	2,340,255
14,324	Wood consumed (all purposes), Cords	15,775
$1 71	Average Cost per Ton of Coal consumed	$1 68
$2 48	Average Cost per Cord of Wood consumed	$2 57
68,698	Locomotive Coal on hand, Tons	115,679
7,563	Long Wood on hand, Cords	6,842
7,007	Short Wood on hand, Cords	6,232

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2496r

Operations per Mile

For the Five Fiscal Years Ending May 31, 1902.

Fiscal year ending May 31st—	Average Number of miles operated.	Gross earnings per mile	Operating expenses and taxes per mile.	Net earnings per mile.	Increase in average mileage operated.
1898	5,070.78	$7,109.47	$4,683 00	$2,426 47	40.00
1899	5,076.89	7,488.11	4,890.54	2,597 57	6.11
1900	5,218.62	8,230.30	5,172.63	3,057 67	141.73
1901	5,507.16	7,825.92	4,944.47	2,881 45	288.54
1902	5,759.61	8,098.49	5,209.67	2,888 82	252.45

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For the Five Years Ending May 31, 1902.

Year ending—	Average mileage operated.	Total tons revenue freight moved.	Total tons revenue freight carried one mile.	Freight earnings.	Total number of passengers carried.	Total number of passengers carried one mile.	Passenger earnings.	Average rate per ton per mile.	Average rate per passenger per mile.
								Cents.	Cents.
1898	5,070.78	19,693,634	3,030,610,175	$27,035,105 39	14,036,388	360,562,986	$7,256,299 23	.89	2.01
1899	5,076.89	21,081,613	3,229,327,820	28,155,676 61	15,225,027	416,384,364	8,067,626 74	.87	1.94
1900	5,218.62	25,442,219	3,849,367,760	32,008,684 48	16,637,841	454,614,457	9,002,687 52	.83	1.98
1901	5,507.16	25,271,726	3,701,417,722	31,364,945 40	16,944.372	483,273,248	9,718,190 87	.85	2.01
1902	5,759.61	29,321,538	4,122,440,480	33,436,891 72	18,648,845	541,676,123	10,886,139 15	.81	2.01
		*	*	*	*	*	*		

2496*t* *Twenty-second Annual Report of the Directors to the Stockholders of the Chicago, Rock Island & Pacific Railway Company, April* 1, 1902.

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2496*u* Twenty-second Annual Report of the Directors to the Stockholders of the Chicago, Rock Island & Pacific Railway Company.

The Board of Directors submits the following report for the year ending March 31, 1902:

Gross Earnings from Operation		$28,385,845.81
Operating Expenses	$17,333,104.44	
Taxes	921,620.75	
		18,254,725.19
Net Earnings from Operation		$10,131,120.62
Add Income from Loans and Investments		936,848.63
" Net Cash Receipts from Lands Sold		12,000.00
Net Income		$11,079,969.25

From this amount has been paid—

For Interest on Bonded Debt	$2,951,322.00	
" Rentals of Leased Lines	756,954.62	
" Rentals and Tolls Missouri River Bridges	150,751.25	
" Dividend on Capital Stock*	2,247,900.75	
		6,106,928.62
Surplus for the Year		$4,973,040.63

The Capital Stock and Bonded Debt of the Company is as follows:

Capital Stock issued	$59,955,800.00
Fractional Scrip convertible into Stock	6,160.00
Six per cent. Mortgage Bonds	12,500,000.00
Four per cent. General Gold Mortgage Bonds	58,581,000.00

* In addition to dividend there has been distributed to Stockholders $499,955.50 from Addition and Improvement Account, being one-quarter (¼) per cent. each on May 1, August 1, and November 1, 1901, and February 1, 1902, as a special dividend on the $50,000,000 Capital Stock outstanding prior to August 1, 1901.

* * * * * * *

2496*v* *Statement Showing the Details of Earnings and Percentage of Operating Expenses as Compared with the Previous Fiscal Year.*

	Year ending March 3[illegible] 1902.	Year ending March 31, 1901.
Gross Earnings:		
Passenger Transportation	$8,030,164.00	$6,400,014.03
Freight "	19,061,857.05	17,730,397.76
Mail "	662,559.95	642,889.00
Express "	463,706.82	435,134.50
Rents	160,640.22	149,448.16
Telegraph	6,917.77	6,811.67
Total Gross Earnings from Operation	$28,385,845.81	$25,364,695.12
Operating Expenses	$17,333,104.44	$16,224,064.31
Taxes	921,620.75	941,028.43
Total Operating Expenses and Taxes	$18,254,725.19	$17,165,092.74
Net Earnings from Operation	$10,131,120.62	$8,199,602.38
Percentage of Operating Expenses to Gross Earnings from Operation	61 6/100	63 96/100
Same, including Taxes	64 31/100	67 67/100

* * * * * * *

2496*w* Freight Earnings.—Freight earnings for the year increased $1,331,459.29, or 7 51/100 per cent.

The revenue from Through Freight (freight delivered to or received from connecting lines) increased $885,034.43, or 8 36/100 per cent., and the revenue from Local Freight increased $446,424.86, or 6 25/100 per cent.

2496*x* Of the entire Freight Earnings 60 20/100 per cent. was from Through Freight, and 39 80/100 per cent. from Local Freight.

The movement of freight earning revenue as compared with the previous year, shows an increase of 539,443 tons, or 7 per cent., and the rate per ton per mile has increased from 99/100 cents to 1 4/100 cents.

Gross Earnings from Operation show an increase — $3,021,150.69, or 11 91/100 per cent.

Operating Expenses show an increase of $1,109,040.13, or 6 84/100 per cent.

Taxes show a decrease of $19,407.68, or 2 6/100 per cent.

* * * * * * *

2496*y* *Statement of Traffic Movement and Earnings.*

	Year ending March 31, 1902.	Year ending March 31, 1901.
Passenger Traffic:		
Number of Passengers carried earning revenue..	8,228,579	7,406,909
Number of Passengers carried one mile.....	373,313,683	295,952,782
Average distance carried	45 Miles	40 Miles
Average amount received from each Passenger..	$.98	$.86
Average Receipts per Passenger per mile . . .	Cts. 2 115/1000	Cts. 2 81/1000
Earnings from Transportation of Passengers....	$7,872,932.09	$6,160,204.48
Earnings from Excess Baggage and Milk.....	$157,231.91	$138,315.27
Earnings from Dining Cars	.....	$101,494.28
Total Passenger Earnings	$8,030,164.00	$6,400,014.03
Freight Traffic:		
Number of Tons carried, of Freight earning revenue.....	8,245,978	7,706,535
Number of Tons carried, of Company Freight...	1,748,178	1,401,710
Total Number of Tons carried.....	9,994,156	9,108,245
Number of Tons carried one mile, of Freight earning revenue.....	1,839,127,297	1,789,092,549
Number of Tons carried one mile, of Company Freight.....	227,668,165	198,028,655
Total Number of Tons carried one mile.	2,066,795,462	1,987,121,204
Average distance carried, of Freight earning revenue	223 Miles	232 Miles
Average amount received from each Ton of Freight earning revenue.	$2.31	$2.30
Average receipts per Ton per mile, of Freight earning revenue.....	Cts. 1 4/100	Cts. 99/100
Total Freight Earnings.....	$19,061,857.05	$17,730,397.76

Dining Car Earnings, for the year ending March 31, 1902, not included in Passenger Earnings.

* * * * * * *

2496z *Summary.*

	Year ending March 31, 1902.	Year ending March 31, 1901.
Number of Miles run by Passenger Trains	7,569,872	6,931,145
Number of Miles run by Freight Trains	10,348,780	9,850,204
Number of Miles run by Switching Trains	4,510,130	4,112,923
Number of Miles run by Gravel and Construction Trains	908,905	787,071
Total Number of Miles run	23,337,687	21,681,343
Number of Tons Freight earning revenue carried one Mile	1,839,127,297	1,789,092,549
Number of Passengers carried one Mile	372,313,683	295,952,782
Earnings per Mile run by Freight Trains	$1.84	$1.80
Earnings per Mile run by Passenger Trains	1.21	1.08
Expenses per Mile run, including Taxes	.78	.79
Percentage of Operating Expenses to Earnings	61 6/100	63 96/100
Percentage of Expenses and Taxes to Earnings	64 31/100	67 67/100
Amount received per Ton per Mile	.01 4/100	.00 99/100
Amount received per Passenger per Mile	.02 115/1000	.02 81/1000
Cost of Maintaining Repairs of Track and Bridges per Mile run	.16	.18
Number of Passengers carried one Mile for each Mile run by Passenger Trains	49	43

2497 I think will furnish that. I think I can get it.

Mr. BAXTER: You don't put in the report for June 30th, 1904.

Mr. COWAN: Yes, that has been introduced in Mr. Tomlinson's exhibits.

Mr. BAXTER: As you have not announced the purpose for which you are going to put that in, I wish to ask if you wish to show from that that under the head of "Stock Yards," the amount expended is shown as $151.43?

Mr. COWAN: I have not looked at that. Whatever is there would show.

Mr. BAXTER: In the event that you do introduce that I would like to have an opportunity to explain that item.

Mr. COWAN: I would not contend that that was all they expended.

The COURT: Let the record show then what you want to about it.

Mr. BAXTER: I want it to show that that item, instead of representing the amount expended by that company for stock yards and elevators during the year ending June 30th, 1904, represents according to the auditor, certain stock yards and elevators which were owned by that company and in the operation of which there was a loss of that amount, and that it does not contain the expenses of maintaining, building or operating the ordinary stock yards

2498 over the system.

The COURT: Let that be admitted and then that will cover it.

Mr. COWAN: If you make that statement as being correct, I will admit it.

Mr. BAXTER: I make it on the authority of a letter from Mr. Gouer, to me.

Mr. LYNDE: This paper that you last offered is not an independent offer, it is simply a compilation of certain figures from the annual reports.

Mr. COWAN: From the record before the Commission.

Mr. LYNDE: If it is offered as any part of the record before the Commission, I desire to make the objection—We all, I think agree that no portion of that is competent or will be admitted here. I want simply to preserve the point on the record.

The COURT: All right.

Mr. COWAN: I desire to offer particularly certain parts of the testimony of Mr. Bird which has already been introduced in evidence without reading, by counsel representing the Missouri Pacific. If you gentlemen will waive the reading it will save some time.

The COURT: All right, I guess they will waive it because it is already in.

Mr. COWAN: We also offer in evidence and file a copy
2499 thereof, of the basis of rates applicable in Central Traffic Association territory on hogs, cattle, calves and sheep except where commodity rates apply as copied from the statement in evidence before the commission, in the record which we have before us.

The COURT: Let that go in, it is under the same objection.

Mr. COWAN: A similar schedule of maximum rates for the transportation of live stock in the state of Illinois, for distances indicated, as published in the Railroad & Warehouse Commission report of the state of Illinois, as filed with the commission as evidence in the original record.

The COURT: And the same objection.

Mr. COWAN: Also a schedule of the maximum rates charged under the Iowa distance tariff as filed with the commission as original testimony.

Also a statement showing shipments of live stock from Kansas City, Leavenworth, Atchison and St. Joseph for August 15th to December 31st, 1901, and 1902, as a part of Mr. Bird's testimony, copied from the record before the commission.

(The statements referred to are marked "General Exhibits 6 and 7.")

We desire to offer in evidence now all the testimony

2499*a* Central Freight Association.

CHICAGO, *October* 25, 1900.

Basis for Rates Between Points in the Territory of the Central Freight Association.

First. The following minimum scale will govern distances from five to four hundred and fifty miles, both inclusive:

Classes—Rates in Cents Per 100 Pounds.

Class 5.	Class 5 Continued.
4	
4½	
5	
5	
5½	
6	
6½	
7	
7½	
7½	
7½	
7½	
7½	
8	
8	
8½	
8½	
9	
9	13
9	13½
9	14
9½	14½
10	15
10	15½
10½	16½
11	17
11	17½
11½	18
11½	
12	
12½	
13	
13	

2500 of Mr. Delano, taken before the Commission, and all of the testimony of Mr. Boyd.

The COURT: Can't you give their initials?

Mr. COWAN: We have handed it to the reporter to copy and they have copied it as a part of the record.

The COURT: Let it go in subject to objection.

Mr. LYNDE: In respect to the testimony of these witnesses, I make the special objection that those witnesses were all within the jurisdiction of the court and could have been produced as witnesses by the complainant here; and that therefore the testimony of such witnesses taken before the commission on the original hearing, is not admissible and that no foundation has been laid for it. That is true of Mr. Delano, Mr. Boyd and Mr. Burton Johnson.

Mr. COWAN: These gentlemen at that time were—Mr. Delano was General Manager of the C. B. & Q. Railroad Company and Mr. Boyd, General Freight Agent of the Chicago Rock Island & Pacific and Mr. Johnson, General Freight Agent of the Wisconsin Central.

Mr. LYNDE: Will you have it admitted on the record that those three witnesses whom you have named were in fact all available to you as witnesses and could have been produced by you on this hearing?

Mr. COWAN: I am not disposed to dispute your statement, if you say that that is true.

2501 Mr. LYNDE: I have no doubt as to Mr. Delano and Mr. Boyd. Mr. Johnson's office is in Milwaukee, but he could have been reached by a subpœna from this court.

Mr. COWAN: I assume that that is the case, in fact, I am sure that it is. In connection with the offer of Mr. Delano's testimony, I wish to state, and I believe that counsel will admit it, that he is now the President of the Wabash Railroad Company.

Mr. DAWES: I suppose so.

Mr. COWAN: That is what I thought. The Wabash is a defendant here, but not represented here. Mr. Biddle, whose testimony was introduced, is at present Vice President in charge of traffic for the Rock Island system. That is admitted to be correct, is it?

The COURT: Oh, yes.

(The testimony of the said witnesses Delano, Boyd and Johnson is in the words and figures following, to wit:)

2502 FREDERICK A. DELANO, a witness on behalf of the complainant, being duly sworn, testified as follows:

Mr. TOMLINSON: Will you kindly state your name and position?

Mr. DELANO: F. A. Delano, General Manager, C. B. & Q. R. R.

Mr. TOMLINSON: How long have you been connected with the C. B. & Q. Railroad?

Mr. DELANO: Eighteen years.

Mr. TOMLINSON: How long in your present capacity?

Mr. DELANO: A year and a half.

Mr. TOMLINSON: Before that what was your position with the C. B. & Q. Railroad?

Mr. DELANO: I have held various positions; was Superintendent of Terminals at Chicago some nine years and——

Mr. TOMLINSON: Your connection with the C. B. & Q. Road has been largely along the lines of the operation of a railroad, has it not?

Mr. DELANO: Yes, sir.

Mr. TOMLINSON: This is a question before the Commission relating both to the relation of rates on live stock and its products and also regarding the reasonableness of certain live stock rates. On the basis of the same rate on both the live stock and the
2503 product, which would you consider the more remunerative traffic from a railroad standpoint, a train of fresh meat or packing house products from the Missouri River destined to Chicago, or a train of live stock picked up at main line stations east of the Missouri River; and in your answer give, so far as possible, the reasons for such conclusions as you arrive at.

Mr. KELLOGG: I object. The witness does not show that he is competent or has made any figures as to the weight of cars, weight of load or knows what the pay freight is in the load or anything about it.

Mr. TOMLINSON: Mr. Delano is an operating man of long experience and in order to save time I have gone right to the meat of the question without prefacing it by certain questions which might lead up to that main inquiry?

Mr. KELLOGG: Well, go ahead.

Mr. DELANO: Did I understand the gentleman to say, which would be the more remunerative, a train of dressed meat from a Missouri River point or a train of live stock from intermediate points?

Mr. TOMLINSON: Yes, sir.

Mr. STICKNEY: At the same rate per hundred pounds?

Mr. TOMLINSON: Yes, sir; and the reasons for your conclusions.

Mr. HANSON: Are you assuming that he is hauling the same number of cars in each train?

2504 Mr. TOMLINSON: He can make that explanation when he makes his answer.

Mr. DELANO: That question reduces itself down to which is the cheaper to be handled per hundred pounds, because the remuneration to the railroad would be the difference between the cost of doing the work and the rate received for it.

Mr. STICKNEY: Would it not be the whole amount received?

—. It would be the gross remuneration, but as I understand, I was asked which was the more remunerative train of these two suppositious trains. That is a pretty difficult question to answer and I should think it was largely a matter of opinion, which would be arrived at by studying the ordinary conditions of handling the business. My judgment would be that the train of live stock would be the more remunerative of those two although the differences might not be so very great. My reason for that is that while there are a

good many expenses incident to the handling of live stock from local stations, the picking up of live stock on a division and gathering it into a train at a division point is not quite as expensive as hauling a train of the full size over the entire division. The cost per ton or per car is greater, but the total cost is not greater. The condition in handling live stock, although they are pretty severe and
2505 pretty difficult to meet have never been quite as severe or quite as difficult to meet as the conditions in hauling the dressed products.

Mr. TOMLINSON: Now, Mr. Delano, make the same comparison between a train of live stock from the Missouri River compared with a train of live stock picked up east of the Missouri River at the same rate.

Mr. STICKNEY: The same rate of freight per hundred pounds?

Mr. TOMLINSON: Yes, sir.

Mr. DELANO: I should say that the train picked up at stations east of the Missouri River, assuming that the business was moving eastward would be more remunerative than a solid train of the same number of cars and same weight picked up at the Missouri River terminal.

Mr. COWAN: You mean it would cost less to perform the service of gathering up at the local stations and bringing to Chicago than it would to bring the same size train from the initial point at the Missouri River?

Mr. DELANO: That is what I mean.

Mr. COWAN: That is your judgment from your experience in the business?

Mr. DELANO: It is.

Mr. COWAN: That is all.

Mr. TOMLINSON: That is all.

2506 Cross-examination:

Mr. STICKNEY: Is the question of the cost of either of those two trains a matter of judgment or guess or is it a matter of mathematics?

Mr. DELANO: The only thing we can determine by mathematics is the average cost of doing business. I do not think you can determine by mathematics the actual cost of a particular train or particular shipment.

Mr. STICKNEY: Here are two trains that start out, one a safe distance behind the other. Now, is the question of the cost of running those two trains a question of judgment of a man who has had long experience in running trains and never figured particularly about the cost anyway, or is it a question of mathematical facts? Is it not a question capable of mathematical solution? I mean the relative cost of the two?

Mr. DELANO: I do not think I could answer any better than I did before. All cost of doing business on a railroad is simply an average figure obtained from actual experience, and we can deduce formula

from that and arrive at a mathematical expression which will give us the comparative cost of doing business; but those conditions are changing and the question of opinion and judgment does enter into the thing, I should say, in determining.

Mr. STICKNEY: Here are two trains starting out, one 15
2507 minutes after the other and following along. Are the conditions changing as to them? Are there not the same conditions practically all the way?

Mr. DELANO: There is no doubt if you can take a suppositious case of two trains, one of one kind of commodity and the other of another, you can figure mathematically what the cost of handling those two trains is absolutely.

Mr. STICKNEY: The question asked you was, take a train of dressed meat and a train of live stock—a solid train of dressed meat from the stock yards and pick up a train of live animals locally. Now the question is—they run along in the same time and under the same conditions—which costs the most; which would be the most remunerative?

Mr. DELANO: In order to arrive at that, you have got to take the average conditions.

Mr. STICKNEY: There is no average where there is only one train. We have to have more than one to get an average. We are not talking about averages. We are talking about just two trains—no averages about it. We are talking about just two trains.

Mr. DELANO: I was simply explaining the reason for my first answer. If the question is now put referring to two trains, of course you cannot determine the cost of any two particular trains until they get to destination. If neither of them have come to grief or
2508 had an accident in transit and the conditions under which they have been handled can be exactly determined, there is no doubt, as Mr. Stickney says, you can determine the exact cost of both those trains.

Mr. STICKNEY: The relative cost?

Mr. DELANO: The relative cost.

Mr. STICKNEY: Now, what does that cost consist of?

Mr. DELANO: The cost consists of the direct items of engine and train service that can be charged to that train and the average cost, divided on a basis of tonnage handled for all the other items of road maintenance and repair.

Mr. STICKNEY: It is not necessary to figure those. They are the same for both, are they not?

Mr. DELANO: They are the same for both.

Mr. STICKNEY: Now, then, there is the fuel. Would it take any more conductors for one train than the other?

Mr. DELANO: No.

Mr. STICKNEY: No more engineers?

Mr. DELANO: No.

Mr. STICKNEY: No more firemen?

Mr. DELANO: No.

Mr. STICKNEY: No more brakemen?

Mr. DELANO: No.

Mr. STICKNEY: No more oil?

Mr. DELANO: Probably not.

Com'r FIFER: Any more fuel?

2509 Mr. DELANO: I estimate it would take less fuel in the case of a train that was picked up.

Mr. STICKNEY: It would take slightly less. Now, suppose you start from the Missouri River and come this way and pick up a load of live stock locally. You get out to the first station and you pick up one car there. You get on that car 23½ cents a hundred. Now, you come along to the next station. There is nothing there. You run along 50 miles and you get another car. You get 23 cents a hundred on that. You run 50 miles further and get another car. You might get 22 cents on that. You run along 50 miles further and get another car and you might get 20 cents on that; and by the time you pick it up all the way through, how about your revenue? Would it be as much as if you hauled them all the way through at a 23 cent rate?

Mr. DELANO: Not in the same case you cite.

Mr. STICKNEY: Is not that the way you pick up train loads?

Mr. DELANO: That is not the question as put to me. That is often the fact.

Mr. STICKNEY: You do not pick up stuff unless you do pick it up, do you? You do not pick up stuff when you have a full train all the way?

Mr. DELANO: That is not the question that was put to me. I am perfectly willing to have it read to me.

2510 Com'r FIFER: Repeat it as — understood it.

Mr. DELANO: As I understood, the rate on the picked up stuff per hundred pounds was assumed to be the same as the rate on the train from the terminal, the solid train.

Mr. TOMLINSON: Right here, I might clear the matter up if you will permit me. The record shows that 23½ cents, for example on hogs and cattle applies about 100 or 150 miles east of the Missouri River. The C. B. & Q. is a very large handler of live stock, was for a long time the largest handler of live stock into this market, and is to day. They handle not one train, but many trains——

Mr. KELLOGG: Let your witness testify to those things.

Mr. TOMLINSON: It is all in the record. How many trains of live stock do you handle in here a day, Mr. Delano?

Mr. DELANO: It varies different days in the week. On Monday and Wednesday morning we frequently handle 20 to 30 trains of live stock.

Mr. TOMLINSON: A caboose and engine, starting from western Iowa points, destined to Chicago, how far would it travel before it had a complete train, to the best of your opinion?

Mr. DELANO: Well, we usually never operate a pick up train over more than one division—from one hundred to one hundred and fifty miles. Some of our heavier stock divisions pick up
2511 over one half of a division and another train picks up over the other half.

Mr. TOMLINSON: You would pick up a full train within one hundred to one hundred and fifty miles in any event?

Mr. DELANO: Usually so. Our stock trains are usually scheduled on certain days of the week and the stock shippers at the local stations know of those days and are prepared for them. We do not run stock trains every day for pick up business.

Mr. COWAN: We have an exhibit here which states the actual amount of commissions collected at the yards taken from the books, and the actual amount of freight paid as shown at the stock yards.

Mr. HANSON: I would like to have a live stock man produce that so as to cross examine him.

Mr. COWAN: Mr. Tomlinson told me that he got that from the records.

Mr. KELLOGG: It is hearsay evidence and we object to it.

Mr. TOMLINSON: Well, we waive it.

Mr. COWAN: I want to make the remark in reference to the admissibility of this that I object to Mr. Bird's testimony. It was immaterial, but they having introduced that testimony and this being of precisely the same character, I took it that no technical objection would be made to prevent its admission.

2512 Com'r FIFER: Gentlemen, you will understand that in the hearing of evidence in these cases the rigid rules of evidence are necessarily greatly relaxed.

Mr. COWAN: This is of precisely the same character as was introduced——

Com'r FIFER: Of course I do not know what there is behind that testimony to authorize its going into the record. There must be somebody's sworn statement.

Mr. COWAN: I just wanted to make a formal offer of that before I leave. I have only a few minutes to make my train.

Mr. KELLOGG: It does not pretend to be a statement of freight paid. It seems to be Mr. Tomlinson's estimate of the amount collected per carload on cattle coming from a thousand or two thousand places. He does not give the freight at all.

Com'r FIFER: It has been tendered as evidence and we can pass upon it after this cross examination.

Mr. KELLOGG: Now, Mr. Delano, what you intended to say was that if you got the same rate for a short haul as for a long haul, each station paying identically the same rate, you thought it cost as much to haul the train load of dressed meat from the Missouri River, the same number of cars as it cost to haul the live stock into Chicago, the same number of cars. Is that what you intended to say?

2513 Mr. DELANO: I intended to say what I did say. The question asked me was, which was the more remunerative, and I said the train of stock picked up at intermediate stations amounting in total to the same weight as a train of dressed product would I thought be more remunerative.

Mr. KELLOGG: If it takes one hundred miles to pick up a train load of stock, for 50 miles you haul a half train and you are paying

the same wages, the same coal bill substantially as to haul the full load?

Mr. DELANO: Yes, sir.

Mr. KELLOGG: And you only get half as much out of it. Is not that true?

Mr. DELANO: That was not the question. I said the cost per ton per mile would be greater, but as the suppositi-ous question asked me was, we will say the train consists of any number of cars you want to say—forty cars—if you got paid for those forty cars whether you hauled them the whole distance or 80 per cent. of the distance, that would be cheaper than hauling a train of dressed meat.

Mr. KELLOGG: But no such case ever exists. You cannot haul a half train and get pay for the whole of it, can you?

Mr. DELANO: Of course it does exist in this way: If the same rates rule for a territory—we will assume the distance from here to the Missouri River is 500 miles—if the same rate rules for any-
2514 where from four hundred to five hundred miles, then all stock picked up at local points this side of the Missouri River up to where that line is will give us the same gross revenue.

Mr. KELLOGG: But it does not so rule, does it?

Mr. DELANO: I do not pretend to be posted on rates. I was answering simply the supposititious question put to me.

Mr. KELLOGG: You do not pretend to be an expert as to which business there is more profit in hauling, packing-house products or live stock, do you?

Mr. DELANO: Of course, I am supposed to know and pretend to know in my position something about the cost of doing business.

Mr. KELLOGG: But you are not testifying as to the profit in doing that business, are you?

Mr. DELANO: It was assumed that the rates per hundred pounds were the same on the two trains. The question reduced itself as to which was the cheaper of the two, because the net revenue to us was the difference between what we got and what it cost.

Mr. KELLOGG: The net revenue depends on the pay-load, does it not?

Mr. DELANO: Yes, sir.

Mr. KELLOGG: That depends on the weight of the car, the
2515 weight of the pay-load, the distance hauled and the rate, does it not, and many other things?

Mr. DELANO: Yes, sir.

Mr. KELLOGG: Very well. Now, you cannot haul local stock for 50 miles with a half load and make as much money as you can to haul it the whole hundred miles with the full load, can you?

Mr. DELANO: It actually occurs in practice——

Mr. KELLOGG: Will you answer the question?

Mr. DELANO: I think your question does not state the question that was put to me. I agree that you cannot say yes to your question, but that was not the question that I answered before.

Mr. KELLOGG: How many cars do you haul in your stock trains from western Iowa to Chicago?

Mr. DELANO: From western Iowa to Chicago?

Mr. KELLOGG: Yes, sir.

Mr. DELANO: In Iowa we do not haul over 30 to 35 cars; in Illinois 40 to 45.

Mr. KELLOGG: I am speaking of Iowa. What is the pay tonnage of a train load of hogs from Iowa on your western division, excluding the weight of the cars?

Mr. DELANO: We do not haul any train of stock directly from Iowa into Chicago without adding to the tonnage. We add on each division according to what we can haul on that division.

2516 Mr. KELLOGG: Do you know what the pay tonnage is of an ordinary stock train from Iowa points on the western division?

Mr. DELANO: You would have to ask that question as to some one division. It would be a varying amount on different divisions.

Mr. KELLOGG: Do you know what the pay tonnage is on the western division, say 150 miles east of the Missouri River?

Mr. DELANO: Yes, sir; about.

Mr. KELLOGG: Have you figured it, averaged it? Do your number of trains run so that you know, or are you guessing?

Mr. DELANO: I have not it in my head accurately. I see figures of that kind every day and could probably tell you pretty near what it is.

Mr. KELLOGG: It appears here in evidence that on the St. Paul Road, the same division, taking the whole number of trains for a month, the average is 740 tons.

Mr. DELANO: That is the gross train?

Mr. KELLOGG: That is the train tons.

Mr. DELANO: That is not what you asked.

Mr. KELLOGG: I am speaking of the gross now.

Mr. DELANO: That is about the same as ours.

2517 Mr. KELLOGG: Is not your dead freight almost double that?

Mr. DELANO: Easily double it.

Mr. KELLOGG: And all hauled with the same number of conductors, the same number of employees and with one engine?

Mr. DELANO: Yes, sir.

Mr. KELLOGG: And substantially the same expense?

Mr. DELANO: Yes, sir.

Mr. KELLOGG: Then, you do not pretend to say there is more money in hauling live stock than dead freight?

Mr. DELANO: We do not class packinghouse products as dead feight. Packinghouse products and meats are always classed by themselves.

Mr. KELLOGG: You mean dressed meat?

Mr. DELANO: Packinghouse products and dressed meats we put in a class by themselves.

Mr. KELLOGG: Do you pretend to say that packinghouse products outside of dressed beef do not load heavier per train than live stock?

Mr. DELANO: I do.

Mr. KELLOGG: Have you any hogs?

Mr. DELANO: Yes, sir.

Mr. KELLOGG: There is no more pay tonnage in a train-load of packinghouse products outside of dressed meats than there is in a train load of hogs?

2518 Mr. DELANO: You said before you were talking of gross tonnage. The gross tonnage on meat trains will not exceed on an average 500 tons. On our stock trains it will run in Western Iowa and on the Iowa lines from seven to eight hundred tons and in Illinois considerable heavier.

Mr. KELLOGG: It takes very much less time to pull a train straight through than to stop at local stations?

Mr. DELANO: Yes, sir.

Mr. KELLOGG: So you are paying for more time?

Mr. DELANO: Well, we do not have to pay overtime for our crews unless they get beyond a certain minimum. We rarely have to pay overtime on pick up stock trains.

Mr. KELLOGG: Now, at local stations in taking on stock, you have to stop and switch the car in for the shipper, do you not?

Mr. DELANO: Usually the train that picks up the stock does not do the switching.

Mr. KELLOGG: Don't you have to stop the train to switch in a car.

Mr. DELANO: Yes, sir.

Mr. KELLOGG: And you have to stop another train to switch it out?

Mr. DELANO: Yes, sir.

Mr. KELLOGG: Is it not a fact that at many stations you do not get but a single car of stock a day?

2519 Mr. DELANO: That is quite frequently the case.

Mr. KELLOGG: That is all.

Mr. TOMLINSON: What is the average cost of the stock yards facilities stationed on the Burlington System—the stock yards and chutes and scales?

Mr. DELANO: I would not like to answer that question without having looked it up particularly, and I have not done so.

Mr. TOMLINSON: Do all your stations have stock scales?

Mr. DELANO: Oh, no.

Mr. TOMLINSON: Most of them have none?

Mr. DELANO: I should say that probably a majority of them have not got stock scales.

Mr. TOMLINSON: As we do not desire to prolong the examination over today, if possible could you approximate what the stock yard facilities cost your company, or would you prefer to file a written affidavit with the Commission on that point.

Mr. KELLOGG: I object to any affidavits to the Commission.

Mr. DELANO: I prefer a good deal not to state it. It would be rather a wild guess on my part. The stock yards at these local stations vary a great deal; some are covered and some open; some are paved and some unpaved; and to arrive at an average for the whole road would take a good deal of figuring, and I did not pre-

2520 pare myself to submit to that inquiry.

Mr. TOMLINSON: That is all.
Mr. KELLOGG: That is all.
Com'r FIFER: What does an ordinary pair of scales cost?
Mr. DELANO: Stock scales?
Com'r FIFER: Yes, sir.
Mr. DELANO: Including the cost of putting them in?
Com'r FIFER: Yes, sir.
Mr. DELANO: I should say something like $150. new.
Com'r FIFER: That is all.

The witness was excused.

EXHIBITS
NOT
SUITABLE
FOR
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2523*b* E. B. BOYD, a witness called on behalf of complainant, having been duly sworn, testified as follows:

The CHAIRMAN: Before you begin to interrogate this witness let me ask you a question. If I understand the purpose of Mr. Cowan's questions to Mr. Bird, they had reference to showing that the actual average load considerably exceeded the minimum. You could not get at what a carload earned without knowing what it actually carried. Your complaint here is of a higher charge on the live animals than on the dressed product. Is it not an entirely safe presumption that in the case of live animal- the actual loading exceeds the minimum more than the actual loading of dressed meats and packing house products?

Mr. TOMLINSON: We think so; yes, sir.

Commissioner PROUTY: Mr. Stickney's testimony was to the contrary.

Mr. COWAN: The point I had in mind was this: It had been stated by Mr. Stickney that the cost of handling the packing house products was greater than on cattle and he instanced that by making certain figures as to the weight. Now, I was asking Mr. Bird the question with a view to determining whether or not that was correct, or knew anything about it, and whether he took it into consideration when they made the rates.

2524 The CHAIRMAN: You will observe that Mr. Stickney's testimony was confined to the month of September of this year, and that he stated as a matter of recollection and judgment, that the average for that month was a thousand pounds greater than the average had been for the year previous.

Mr. COWAN: Yes, sir; I remember that every distinctly.

The CHAIRMAN: In other words, it was rather my impression, taking what has been testified to here, in listening to what the witnesses have said, and bearing in mind some reasons why the packers would not be likely to load their cars much above the minimum, because they want to get the mileage, that probably the average load of live stock exceeds the minimum more than the average load of dressed meat and packing house products exceeds the minimum. Now, as you are complaining of the high rates on live stock, would it not be for the other side to explain? Do you need to pursue the question for your purposes as to the minimum on dressed meat and packing house products and the actual carload as bearing upon the reasonableness of the rate?

Commissioner PROUTY: Mr. Stickney testified this morning that the average loading for the month of September on dressed meats was 27,000 pounds, which was 7,000 pounds in excess of the minimum, and that was only 1,000 pounds in excess of what the
2525 actual loading in this country would be. So the testimony would be that it was about 26,000 pounds.

Mr. TOMLINSON: We quite agree with your statement, Mr. Chairman, that those are the facts. I wanted to show the facts as you state them.

The CHAIRMAN: I supposed that was the general fact and did not

suppose there was any doubt about it. It might not happen in a particular month. It would seem from a general knowledge of the subject that it must turn out to be the fact.

Mr. COWAN: It rather strikes me that the complaint here is that the published rates and the rate which is in fact charged is too great upon live stock and constitutes an undue preference, and that is based upon the fact that the published rates are upon the minimum weights.

Mr. TOMLINSON: Mr. Boyd, you have been sworn?

Mr. BOYD: Yes, sir.

Mr. TOMLINSON: You have been in the room and heard the testimony in this case?

The CHAIRMAN: Have you stated your name and business?

Mr. BOYD: Not yet.

Mr. TOMLINSON: Will you kindly state your name and position, Mr. Boyd?

Mr. BOYD: E. B. Boyd; General Freight Agent, Chicago Rock-Island & Pacific Railway.

Mr. TOMLINSON: At the time the Chicago Great-Western
2526 put in the rate of 16½ cents upon proportional shipments and 20 cents on local shipments to Chicago on both fresh meat and packing house products from Missouri River, what action did your company take?

Mr. BOYD: We met them.

Mr. TOMLINSON: At the time the Santa Fe put in its 12-cent rate, what action did your company take?

Mr. BOYD: We also met it as a proportional rate.

Mr. TOMLINSON: What is the average loading of cars of dressed beef or fresh meats?

Mr. BOYD: The best information I have been able to obtain from our own records is that fresh meat would run about 21,000 pounds; packing house products from 26,000 to 29,000 pounds; it depends upon the condition as to whether there are plenty of cars or not. The average, in my opinion, is somewhere about 27,000 to 28,000.

Mr. TOMLINSON: What is the average weight of refrigerator cars?

Mr. BOYD: That varies, some cars, 42,000, some 32,000, and the average I should judge, runs from 36,000 to 37,000 pounds.

Mr. TOMLINSON: What is the average weight of live stock cars?

Mr. BOYD: Our live stock cars are 22,000, 34 foot; and 32,000, 36 feet dimension.

Mr. TOMLINSON: You say there are 22,000 for 34-foot cars?

2527 Mr. BOYD: Yes, sir.

Mr. TOMLINSON: The average of your equipment used in the transportation of live stock,—what would be the average weight of the entire equipment?

Mr. BOYD: That is guess work. I do not know just now. We have been adding to our equipment and I do not know how the cars would average, but I assume 26,000 or 27,000 pounds would strike about an average.

Mr. TOMLINSON: How much ice and salt is transported in refrigerator cars carrying fresh meat?

Mr. BOYD: Not over 2,000 on an average.

Mr. TOMLINSON: Winter and summer?

Mr. BOYD: In winter of course, they do not require so much; in extreme weather in the summer they would require more.

Mr. TOMLINSON: On the basis of 18½ cents on fresh meat from the Missouri River to Chicago destined east, compared with a similar rate on cattle, which would you regard as the more desirable traffic?

Mr. BOYD: From the Missouri River?

Mr. TOMLINSON: Yes, sir.

Mr. BOYD: I would prefer at the same figure the cattle business.

Mr. TOMLINSON: Do you consider there is any more risk in the transportation of cattle than fresh meat?

2528 Mr. BOYD: Yes, sir, on a general way I do. What do you mean by the term "risk"?

Mr. TOMLINSON: I mean liability to damage en route.

Mr. BOYD: You mean incident to transportation?

Mr. TOMLINSON: Yes, sir.

Mr. BOYD: I think there is more opportunity to damage to live stock than there would be to fresh meat.

Mr. TOMLINSON: When you consider the extra value of the product, would that affect your conclusion, or would that off-set it?

Mr. BOYD: No, sir; not from an operating standpoint—railroad standpoint.

Mr. TOMLINSON: You mean to say that value does not constitute a very important element in fixing the rates?

Mr. BOYD: I do not say that—Any article is liable to be damaged, it makes no difference whether it is worth $1,000 or $1.

Mr. TOMLINSON: Your liability is greater.

Mr. BOYD: Our liability is greater, sure—according to the value of the shipment.

Mr. TOMLINSON: Is there any material difference in the service accorded live stock and its product; train service, I mean, speed of handling trains?

2529 Mr. BOYD: Well, yes. You take the time that live stock consumes in transportation—say, from origin—say the Missouri River to market; of course, it takes longer to reach Chicago than a trainload of fresh meat owing to numerous stops that stock trains must make in order to complete their loads, and it necessitates greater speed between stations; and there is greater strain on the equipment and more consumption of coal.

Mr. TOMLINSON: But the actual time involved——

Mr. BOYD: The actual time in the transportation of train from the point of origin to destination is generally greater on live stock than on fresh meat.

Mr. TOMLINSON: How many cars of live stock do you usually transport in a train?

Mr. BOYD: It depends on location.

Mr. TOMLINSON: What would be the maximum load?

Mr. BOYD: I would not say. Some engines are rated for a greater

load than others. Then, of course, you have got to take into consideration the curves and topography of the country.

Mr. TOMLINSON: The dead weight of a train is the factor which determines whether you can haul many or few cars,—entirely so?

Mr. BOYD: Yes, sir.

Mr. TOMLINSON: So far as your knowledge goes, is there any instance anywhere in the country where rates on fresh meat and
2530 packing house products are made the same or less than on live stock except the territory in dispute between the Missouri River and here?

Mr. BOYD: I do not recall such conditions. I think at Wichita at one time—I don't know but what they may exist to-day—there was a differential of 6 cents a hundred over the Missouri River rate. That I think possibly would have a tendency to make a lower rate on the live stock, but I am not sure that that applies to Chicago. It is a Southern differential.

Mr. TOMLINSON: I think it does from Wichita and I think another Kansas point you have the same condition, where a less rate applies on the product than applies on the live article. Which rate carries the largest amount of product, the 20 or 18½?

Mr. BOYD: I should judge the 18½ cent rate, naturally, because the bulk of the products manufactured at the Missouri River would hardly come to Chicago. That would be "carrying coals to Newcastle."

Mr. TOMLINSON: Mr. Boyd, do you know whether your rates between Iowa and Missouri stations and Chicago are on the same or less or greater scale on cattle, for example, than your rates in to South Omaha or Kansas City, or points on the Missouri River?

Mr. BOYD: I could not answer that question because the
2531 rates from Iowa points in to Chicago are so much greater in mileage than from Iowa points in to the Missouri River.

Mr. TOMLINSON: I am asking from Kansas and Nebraska points in to the Missouri River?

Mr. BOYD: As I recall the rates from Kansas points, a distance from 300 to 400 miles, or 350 miles, is about $60 or $65 a car.

Commissioner FIFER: Where to?

Mr. BOYD: To the Missouri River. The rate from the Missouri River for a distance of 500 miles under present conditions figures $30 to $36 a car and under normal conditions about $51 a car.

Mr. TOMLINSON: You are not quite certain of that, are you? The figures scarcely support you I think.

Mr. BOYD: You mean in Kansas?

Mr. TOMLINSON: Yes.

Mr. BOYD: It has been sometime since I had occasion to look up the tariff. I know when I looked up the rates they ran from $60 to $65 in Northwest Kansas. There may have been some changes.

Mr. TOMLINSON: Do you consider the rates in the Iowa Commissioners' schedule as fair.

Mr. BOYD: No, sir; I do not.

Mr. TOMLINSON: How about the Illinois Commissioners' schedule and classification?

2532 Mr. BOYD: I certainly think they are not fair.

Mr. TOMLINSON: Your company has prospered pretty well under those rates in effect.

Mr. BOYD: They have got along; the same as the others. They don't do it on the Illinois rates.

Mr. TOMLINSON: You take the position that all the rates are too low?

Mr. BOYD: I don't care to make any statement as to whether the rates are excessively high or excessively low without carefully going in to it.

Mr. TOMLINSON: You are aware of the fact that there is a large movement of live stock from Western Iowa in to Omaha via your lines and other lines?

Mr. BOYD: Yes, sir.

Mr. TOMLINSON: There is——

Mr. BIRD: When did you put in a rate of 18½ and 20 cents on packing house products?

Mr. BOYD: I do not recall the exact date. I think sometime in August.

Mr. BIRD: Why?

Mr. BOYD: Competition.

Mr. BIRD: You met the rate made by another road?

Mr. BOYD: Yes, sir.

Mr. BIRD: When did you put in the rate of 12 cents on the live stock?

2533 Mr. BOYD: I do not recall that rate?

Mr. BIRD: Why did you put it in?

Mr. BOYD: The same reason.

Mr. BIRD: You didn't put in that rate of 12 cents on live stock because it was your idea that it was the proper thing to do?

Mr. BIRD: No, sir.

Mr. TOMLINSON: Do you consider the 12-cent rate pays you any net revenue on live stock from the Missouri River to Chicago? If so, give us your basis for that conclusion.

Mr. BOYD: We think that as long as we are forced to run trains from the Missouri River to Chicago on fast schedule time that any tonnage we can get that will assist in reducing the cost of that train is just so valuable to us. In itself I doubt very much if you can figure any revenue net on the 12-cent rate. But it will pay for the service. But so long as our trains were not filled in tonnage, we felt at the time that it was an advantage to us to get that as long as we could not get anything more.

Mr. TOMLINSON: Has your line a double track between here and the Missouri River?

Mr. BOYD: No, sir.

Mr. TOMLINSON: Under ideal conditions, if you were permitted to make them, how would you adjust the rates on live stock?

2534 Mr. BOYD: I think the packing house products would take a higher rate than the raw material.

Mr. TOMLINSON: That is the theory upon which rates are generally adjusted.

Mr. BOYD: Yes, sir; the generally accepted theory.

Commissioner PROUTY: You say that this 12-cent rate is a proportional rate?

Mr. BOYD: Yes, sir.

Commissioner PROUTY: What do you mean by that?

Mr. BOYD: Applicable on stock coming from points west of the Missouri River.

Commissioner PROUTY: Do you apply it to anything else?

Mr. BOYD: Not so far as my knowledge goes.

Commissioner PROUTY: What pains do you take to ascertain whether the stock does come from West of the Missouri River?

Mr. BOYD: You will have to ascertain that from our Agent at the Missouri River.

Commissioner PROUTY: What instructions do you give about it?

Mr. BOYD: I do not know of any particular instructions that are given except what is in the tariff. I have had general talk with our live stock agent and told him that he must ascertain whether the live stock came from West of the Missouri River.

2535 Commissioner PROUTY: Do you apply that rate to intermediate points?

Mr. BOYD: Yes, sir; we have applied that on stock cattle to intermediate points.

Commissioner PROUTY: Do you apply it to intermediate points, or from intermediate points to Chicago?

Mr. BOYD: No, sir.

Commissioner PROUTY: Name me some station on your line 25 miles this side of Kansas City.

Mr. BOYD: The nearest station we have is about 50 miles this side of Kansas City, which is Cameron.

Commissioner PROUTY: What is the rate from Cameron to Chicago?

Mr. BOYD: Twenty-three and a half cents.

Commissioner PROUTY: What is the rate from Cameron to Kansas City?

Mr. BOYD: I do not recall; 8 or 9 cents, I believe: somewhere along there.

Commissioner PROUTY: Could live stock be taken from Cameron to Kansas City and shipped back from there at the 12-cent rate?

Mr. BOYD: Not so far as I am able to say. Possibly that stock might go in to the Missouri River and be mixed up in pens with stock from the West and not be identified.

2536 Commissioner PROUTY: You ship stock for anybody from Kansas City to Chicago at 12 cents?

Mr. BOYD: Yes, sir.

Commissioner PROUTY: So it amounts to all practical purposes to a flat rate of 12 cents?

Mr. BOYD: There are no shipments that originate so far as I have been able to ascertain at the Missouri River. All the stock that comes in there, comes in with the market privilege. It was formerly the practice to bill to Chicago with the market privilege at Kansas City, enabling the shipper to avail himself of the market there and

if not satisfactory to come on. That necessitated the holding of way bills and prevented the Agent from closing his account. It developed in to another practice so that stock was brought in to the Missouri River and the charges collected and then adjusted on the out-bound movement. But I do not know of any stock locally at the Missouri River that comes in without the assistance of the railroads.

Commissioner PROUTY: I suppose no stock originates strictly at Kansas City. But in what respect does your 12-cent rate differ from a flat rate applicable to all stock from Kansas City to Chicago?

Mr. BOYD: A flat rate would apply to all stock coming from east of the river. It would apply as a maximum.

Commissioner PROUTY: You might put in a 12-cent rate at
2537 Kansas City. It might not be a local rate. In what respect does this 12-cent rate differ from a flat rate at Kansas City with respect to its practical use?

Mr. BOYD: What I have just stated, so far as we are concerned, we are confining it to stock west of the Missouri River, and so far as that stock is concerned, it practically has the effect of a flat rate.

Commissioner PROUTY: Do you undertake to confine it to stock west of the Missouri River?

Mr. BOYD: As far as my knowledge goes, the Agent is supposed to exercise his judgment.

Commissioner PROUTY: You do not require a through way bill?

Mr. BOYD: Way bills are taken up. We require evidence from our Agent to show that it came in from West of the Missouri River. He can get it from commission firms, so he informs me. I am not posted as to the details of handling that business there locally at the Missouri River.

Mr. COWAN: I will suggest to the Commission that the witnesses have all testified that there is no live stock originating at the Missouri River. I would like to ask Mr. Boyd a question. Perhaps there is a little misunderstanding about that. Is it not a fact that the feeders from Kansas and the points above quarantine line in Kansas
2538 are shipped in to Kansas City, St. Joe, and some from Missouri, Colorado and Nebraska to Omaha and there sold as feeders to parties who take them out to the feed lots and those feed lots are situated, many of them, in the comparatively near vicinity of Kansas City, St. Joe, Leavenworth and along the Missouri River?

Mr. BOYD: There may be. I do not know of any feed lots in the vicinity of Kansas City or St. Joe.

Mr. COWAN: Within 15 or 20 miles, do they not feed a great many cattle clear up to Atchison?

Mr. BOYD: Cattle are fed all along there.

Commissioner PROUTY: Is that a transit privilege?

Mr. BOYD: I think so.

Mr. COWAN: One point about feeders stopping on a feeding privilege. The feeders brought in and sold in the markets there, is it not true that they are not stopped at Missouri River points and fed in Kansas, but only farther back in Kansas, and it does not apply to Kansas City?

Mr. BOYD: I do not remember whether the rules for transit privileges apply west of the River or not, I have forgotten.

The CHAIRMAN: I understood you to say that at the same rate on both, you would prefer to haul live stock rather than dressed meat?

Mr. BOYD: So long as the rate is reasonable.

2539 The CHAIRMAN: I understood you to say the same rate on both, you preferred the live stock business?

Mr. BOYD: Yes, sir.

The CHAIRMAN: Will you explain why you make that answer?

Mr. BOYD: In the first place a train from the Missouri River, live stock for instance, brings to Chicago an equipment that in a great many cases can be loaded back. We have ties, rails, lumber, coal, coke and various commodities that frequently can be loaded back in live stock cars. Such is not the case with refrigerators. Besides there is a difference in dead weight, which is also in favor of the live stock, and whenever you can load back your trains and produce revenue in both directions, you materially reduce the cost.

The CHAIRMAN: The mileage you pay on the car is more than the interest on the cost of your cars?

Mr. BOYD: I think the item of mileage should also be considered. An an average of 6 mills on equipment of that kind, you still have a balance of 4 mills.

Mr. KELLOGG: Mr. Boyd, your local rate is 23½ cents from Kansas City to Chicago, is it not?

Mr. BOYD: Yes, sir.

Mr. KELLOGG: What is the local from Topeka to Kansas City?

Mr. BOYD: I do not remember.

2540 Mr. KELLOGG: Can you tell me about what it is?

Mr. BOYD: About Twenty to twenty-five dollars—something like that.

Mr. KELLOGG: I mean per hundred pounds.

Mr. BOYD: Eight and a half cents.

Mr. KELLOGG: Eight and a half cents. That makes your rate from Topeka to Chicago by way of Kansas City market 32 cents, does it not?

Mr. BOYD: On a combination of locals.

Mr. KELLOGG: What is your rate from Topeka to Chicago—the through rate?

Mr. BOYD: Twenty-nine and a half cents.

Mr. KELLOGG: Now, as a matter of fact all the rates from Texas, Kansas, Colorado and Nebraska reached by your road—from all points to Chicago, the through rate is less than the sum of the locals, is it not?

Mr. BOYD: Yes, sir.

Mr. KELLOGG: That is for the benefit of the Chicago market, is it not?

Mr. BOYD: It is.

Mr. KELLOGG: If a man wants to ship in to the Kansas City market, he must pay the local rate, must he not?

Mr. BOYD: Yes, sir.

Mr. KELLOGG: From Topeka?

Mr. BOYD: Yes, sir.

2541 Mr. KELLOGG: The rates to-day are in favor of the Chicago market, are they not, on live stock? Is not that so?

Mr. BOYD: I think so. I do not know that they necessarily favor the Chicago market as against any other market.

Mr. KELLOGG: They are certainly as favorable, are they not?

Mr. BOYD: Yes sir, they are.

Commissioner PROUTY: I do not understand that they are complaining of the rates from Kansas City. They say that it is when they get farther north they do not bear the same relation to each other that the Kansas City rates do.

Mr. KELLOGG: They do. On the rates from Montana to Chicago on through business, the proportion from St. Paul to Chicago is 15 cents, while the local rate is a great deal more. Chicago is favored by every single long distance tariff in this country as a cattle market.

Mr. BOYD: I want to make a statement in order that I may not be misunderstood. In answering a question that I would prefer a train load of cattle at the same rate to a train load of dressed beef, it must be taken into consideration that there is a vast different in my opinion in taking a train load of cattle from Western Iowa to Chicago with all the incidents as against one from the Missouri River.

2542 The CHAIRMAN: I understand you to say from the Missouri River.

Commissioner PROUTY: I would like to know why it cost you so much more when you pick up a train load in western Iowa?

Mr. BOYD: We have all the stops to make, and that is not an inconsiderable item in operating a train. It is well known—I am not up technically in those matters—that it is more expensive to run a train when there is a great many stops. It has been estimated how much more coal it takes. If a train starts from the Missouri River it makes no stops other than those necessary for changing crews, or at crossings, or things where safety requires it. Then every time you stop a train, you have switching to perform.

Commissioner PROUTY: I suppose there would be more expense, but I did not know why it would be so much more. You start from Kansas City and have just a caboose and nothing else, and you take a couple of cars at the first station, and a couple from another station, and so on up to Chicago. From most of those stations the rate is 23½ cents. It does not cost as much to haul the caboose as the full train. It does not cost as much to haul two cars as the full train. That in some respects off-sets the difference, does it not.

2543 Mr. BOYD: I would not undertake to say what that difference would be, but it is very apparent to me that any stop would subject a train to, whether heavily or lightly loaded, means an expense against direct service.

Commissioner PROUTY: Do you stop and take on a part of a car load or always a full car load.

Mr. BOYD: A full car load. It may be a part of a car load, but at the full car load rates.

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Mr. TOMLINSON: It is not an unusual condition for you to get a full train load out of a couple of stations, is it?

Mr. BOYD: We do not often have that east of the Missouri River, but West of the River, it is true. One man out there used to brag that he wanted to load clear when he commenced to ship.

Mr. TOMLINSON: You would get more than an average of two cars at a stop, would you not?

Mr. BOYD: I would not undertake to say.

Mr. TOMLINSON: Would you not think so?

Mr. BOYD: I would not undertake to say.

Mr. TOMLINSON: You have, say, half a dozen live stock trains coming to Chicago on any busy day. Naturally all those trains could not start from the same territory. Your train from Western Iowa probably did not run over 100 miles in getting its full quota of cars and probably for the balance of the distance it ran through without any stops?

2544 Mr. BOYD: Under that condition, how would you take care of Eastern Iowa?

Mr. TOMLINSON: By another train that started east.

Mr. BOYD: When we start a train in Western Iowa, we avoid as much as possible transferring stock on local trains for the Chicago market.

Mr. TOMLINSON: Do you know what an average train load of live stock cars is? How many cars would be in a train?

Mr. BOYD: I do not know what the average would be. It varies according to conditions.

Mr. TOMLINSON: You have much more than one train into the yard a day, do you not?

Mr. BOYD: Yes, sir.

Mr. COWAN: One question I want to ask. So far as the unloading of the cattle is concerned, that is compensated for in the terminal charge, is it not, charged against the shipper?

Mr. BOYD: It does not compensate us. We have to pay that.

Mr. COWAN: But it is added to the through rate, the 12 or 23-cent rate. Two dollars is added to that and in that is embraced the cost of unloading, is it not?

Mr. BOYD: No, I do not think it is; not with us. It costs us, I understand, 40 cents a car. I had it figured out, and it cost about $2.40 for our cars and engines.

2545 Mr. TOMLINSON: Do you assess the terminal on local fresh meat and packing house products in here?

Mr. BOYD: Yes sir.

Mr. TOMLINSON: I understand that the Santa Fe and some others do not.

Mr. BOYD: I understand so.

Mr. TOMLINSON: Do you get any of this 20-cent business under that rate?

Mr. BOYD: I do not recall.

Mr. TOMLINSON: You don't think you get it on the 20-cent basis?

Mr. BOYD: We had some on the 20-cent basis. I do not know whether any went to the Stock Yards.

Mr. KELLOGG: Mr. Boyd, when a train load of stock is loaded, or packing house products is loaded at the Missouri River, is there very much more money in hauling that straight through than when you pick it up?

Mr. BOYD: You are sending a load of packing house products from the Missouri River against local points?

Mr. KELLOGG: Yes sir.

Mr. BOYD: I am not competent to answer that.

Mr. KELLOGG: You know that on a long haul of a thousand miles, more money can be made at a very much lower rate.

Mr. BOYD: Yes, sir; that is a theory of rate making.

Mr. KELLOGG: Now, you say that some of your refrigerator
2546 cars weigh 38,000 pounds?

Mr. BOYD: I said that the dressed beef and packing house product cars we haul run from 32,000 to 42,000 pounds.

Mr. KELLOGG: You think the average loading is 21,000 pounds?

Mr. BOYD: Our records show 21,000 to 21,500 pounds per car.

Mr. KELLOGG: You do not haul many big cars?

Mr. BOYD: I do not know.

Mr. KELLOGG: You do not know whether your cars would average 32,000 pounds? Do you think they would average more than 32,000 pounds weight, the cars?

Mr. BOYD: I do not know.

Mr. KELLOGG: Then, this is a mere impression of yours that you have as to the weight of the cars?

Mr. BOYD: It is not an impression. It was told me by parties who are supposed to know their business.

Mr. KELLOGG: They said they would weigh that.

Mr. BOYD: In some cases 42,000 and in some cases 32,000. I think the Kansas City Dressed beef line, the information I got from them was that they would average between 35,500 and 40,000.

Mr. KELLOGG: You don't know anything about it yourself?

Mr. BOYD: No sir.

Mr. KELLOGG: That is all.

(Witness excused.)

2547 BURTON JOHNSON, a witness on behalf of the complainant, being duly sworn, testified as follows:

Mr. TOMLINSON: Will you kindly state your name?

Mr. JOHNSON: Burton Johnson, General Freight Agent, Wisconsin Central Railroad.

Mr. TOMLINSON: At the time the Great Western and other lines put in the 18½ and 20 cent rates on fresh meats and packing house products to Chicago, what action did you take at South St. Paul?

Mr. JOHNSON: We reduced the rate from South St. Paul correspondingly.

Mr. TOMLINSON: To what figures did that reduce the rate, if you remember?

Mr. JOHNSON: To 17 cents on dressed meats and 15 and a fraction on packing house products.

Mr. TOMLINSON: That is the local, and on the proportional?

Mr. JOHNSON: Fifteen and fourteen. I have the figures here (producing paper). The proportional rate on packing house products was 14.6 cents, and on dressed beef 15.7 cents.

Mr. TOMLINSON: How did you arrive at that?

Mr. JOHNSON: By making the same proportional reduction
2548 from South St. Paul as from the Missouri River.

Mr. TOMLINSON: How are the rates on packing house products and fresh meats from Chicago to St. Paul made—I mean northbound?

Mr. JOHNSON: I do not know.

Mr. TOMLINSON: They are higher than the southbound rates are they not?

Mr. JOHNSON: Yes, sir.

Mr. TOMLINSON: Do you know why they are made higher?

Mr. JOHNSON: I have no idea. It is a rate so little used that the fact of its existence is not know- except to some one especially interested to look it up.

Mr. TOMLINSON: How does it happen that from St. Paul you make a higher rate on fresh meat than on packing house products?

Mr. JOHNSON: It is the same relative basis as from other packing house points.

Mr. TOMLINSON: From the Missouri River they are both the same.

Mr. JOHNSON: Well, there has always been a difference at St. Paul. I do not know how it came about.

Mr. TOMLINSON: In every other section of the country except between the Missouri River and Chicago, there has been a decided difference between the rate on fresh meat and packing house products.

2549 Mr. JOHNSON: I do not know what the genesis of that difference was.

Mr. TOMLINSON: And in most sections of the country the universal rule has been to make the rates on the product somewhat higher than on live stock.

Mr. JOHNSON: Yes, sir.

Mr. TOMLINSON: What are the rates on live stock from St. Paul and intermediate territories to Chicago?

Mr. JOHNSON: I think the St. Paul rate is 25 cents on the cattle.

Mr. TOMLINSON: And on hogs?

Mr. JOHNSON: Twenty-seven cents.

Mr. TOMLINSON: And on sheep, 27?

Mr. JOHNSON: That is right.

Mr. TOMLINSON: That applies from a pretty good zone of territory, does it not?

Mr. JOHNSON: It applies from St. Paul proper, but as a matter of fact it is not brought into use, because there are no shipments from St. Paul proper.

Mr. TOMLINSON: It is really for a considerable zone of territory.

Mr. JOHNSON: Yes, it covers a large portion of Wisconsin.

Mr. TOMLINSON: As compared with the packing house rate of

14.6, for example, is it not possible and is it not a fact that a
2550 great deal of live stock from Southern Minnesota and Wisconsin moves back into St. Paul, is slaughtered and subsequently comes east under those very low rates?

Mr. JOHNSON: Yes, sir.

Mr. TOMLINSON: It just permits that movement. Have you any information as to average weight of the live stock cars used by your company?

Mr. JOHNSON: The weight of the cars?

Mr. TOMLINSON: Yes, sir.

Mr. JOHNSON: I should think about 19,000 pounds.

Mr. TOMLINSON: That is the weight of the car?

Mr. JOHNSON: The weight of the car.

Mr. TOMLINSON: What is the average weight of refrigerator cars?

Mr. JOHNSON: About 30,000 pounds.

Mr. TOMLINSON: The medium carload weight of live stock as published in your tariff is 22,000 pounds on cattle and 17,000 pounds on hogs, and more frequently than otherwise they exceed the minimum, do they not?

Mr. JOHNSON: Slightly.

Mr. TOMLINSON: Do you know what the average loading of refrigerator cars is with dressed beef?

Mr. JOHNSON: What we haul?

Mr. TOMLINSON: Yes, sir.

Mr. JOHNSON: It runs about 21,000 or 21,500 pounds.

2551 Mr. TOMLINSON: And on packing house products?

Mr. JOHNSON: About 26,000 or 28,000 pounds?

Mr. TOMLINSON: At equal rates, which would you rather haul, a train of live stock or of fresh meats from St. Paul to Chicago?

Mr. JOHNSON: Live stock, and I will tell you why; because we own our own live stock cars and do not own our own refrigerators. That is the main reason.

The CHAIRMAN: Is that the main reason for your answer?

Mr. JOHNSON: Yes, sir.

The CHAIRMAN: Owning your own cars, ought you not charge as against the rate something for interest on the cost of those cars and the depreciation and keeping them in repair?

Mr. JOHNSON: Yes, but even with that I think it is preferable to haul the live stock.

The CHAIRMAN: It appears here that 6 mills has been used for certain calculations because that is the rate that is paid as between one road and another, but what, according to your experience or observation and knowledge, is a fair charge for mileage to cover the interest on cost, depreciation and repairs of cars owned by the company?

Mr. JOHNSON: I would say as to that, I do not think I am competent to fix that. That is a matter of operating and economies with which I am not directly interested and with which I have no familiar knowledge.

2552 The CHAIRMAN: It would seem that you have assumed something of that sort.

Mr. JOHNSON: The cost of 6 mills for an ordinary car or stock car and 10 mills for a refrigerator, added to the difference in weight we have to haul in transporting or hauling a refrigerator car as against the ordinary car, the difference to my mind is so largely in favor of the common car against the refrigerator car that I do not hesitate to state it.

The CHAIRMAN: What you meant was, that paying 1 cent a mile for the car of somebody else, and charging 6 mills against your own car, that difference of 4 mills is enough to give you a reason for answering that you would rather carry the stuff that comes in your own cars?

Mr. JOHNSON: Yes, sir; and another reason is that we are carrying 10,000 pounds less dead weight.

Commissioner FIFER: Suppose your company owned both the refrigerator and stock cars, which would you prefer?

Mr. JOHNSON: The live stock, because we would haul 10,000 pounds less dead weight, eliminating the question of mileage entirely.

Commissioner PROUTY: Do you get any back loads for your stock cars?

Mr. JOHNSON: Yes, we can load lumber in them and bark and a dozen commodities which we cannot load into refrigerator
2553 cars.

Commissioner FIFER: Do you think packing house products ought to carry a higher rate than live stock?

Mr. JOHNSON: Yes, sir.

Commissioner FIFER: How much higher?

Mr. JOHNSON: Well, that is a pretty hard thing to say, Mr. Commissioner, without going into it very thoroughly, and it would depend on the locality largely.

Commissioner FIFER: Under all conditions?

Mr. JOHNSON: I should say from three to five cents difference per hundred pounds.

Commissioner FIFER: You heard Mr. Stickney's statement?

Mr. JOHNSON: Yes, sir.

Commissioner FIFER: You do not agree with that?

Mr. JOHNSON: Not on the whole. I do not like to differ with Mr. Stickney because he knows a great deal more than I do, but on some things I do not agree with him.

Commissioner FIFER: What exceptions do you take to his figures? He reduced it, or tried to reduce it to a mathematical demonstration.

Mr. JOHNSON: There may have been some special reason for that particularly heavy loading with Mr. Stickney. I know that sometimes in the transportation of other commodities the loading will run, the average, very much higher for one month than for other
months. For instance, last month in the transportation of
2554 flour out of Minneapolis there was a scarcity of cars. Our average loading of flour per car ran from 46,000 to 57,000 pounds, simply because there was a scarcity of cars. That may have been the condition with Mr. Stickney during September. There may have been a scarcity of cars, a shortage of refrigerator

cars. Those things have to be taken into consideration and no single month is a fair test for anything. You have to run through an extended period.

Mr. TOMLINSON: Mr. Bird dropped the remark a little while ago that the shippers out at South St. Paul did not want the South St. Paul rates reduced. Is that correct?

Mr. BIRD: I understood the shipper did not think it best to reduce the rate. It was only one man I referred to.

Mr. TOMLINSON: Do you know anything about that, Mr. Johnson?

Mr. JOHNSON: I do not know. Maybe Mr. Bird was closer to him than I was. But whether they wanted it or not, we, acting as our duty was, for the interest of the railroad and not the interest of the shipper, have taken such action as to our judgment seemed best.

Commissioner PROUTY: Why did you reduce that rate if the shipper did not want you to?

Mr. JOHNSON: I did not know he did not want us to. What I wanted to establish and continue was the co-relation between
2555 St. Paul and the Missouri River, which had always obtained.

Commissioner PROUTY: Why?

Mr. JOHNSON: If I had not, when the time came for normal restoration, they would possibly want to push St. Paul up higher. That has been our experience in the past, and we did not want them to repeat it.

Commissioner PROUTY: What difference did it make to you if the shipper was dissatisfied?

Mr. JOHNSON: We did not know he would be dissatisfied.

Commissioner PROUTY: Is there any reason, except to satisfy the shipper, that you should want the rate to bear a relation to the Missouri River rate?

Mr. JOHNSON: Yes, to satisfy ourselves. On any commodity manufactured where we are vitally interested as against a similar commodity manufactured and controlled at a point where we have no interest at all, we want to preserve the co-relation of rates between the points where we have an interest and the place where we have not an interest.

Commissioner PROUTY: It satisfied you because in order to promote the business of killing stock at that point you have to put in that rate? That is the reason?

Mr. JOHNSON: Yes, sir.

Commissioner PROUTY: And puttin- in that rate does tend to increase the killing of stock at that point.

2556 Mr. JOHNSON: Yes. The same with flour. Assuming the mills at Topeka get a reduction for export, or to Chicago, we would feel it incumbent on us to make a corresponding reduction in our rate to equalize commercial conditions and enable people with whom we are associated to distribute their product.

Commissioner PROUTY: Is it a fact that there is only one packer at St. Paul?

Mr. JOHNSON: So far as I know, yes, sir; there used to be two, but I think the other house shut up.

Mr. TOMLINSON: Was there an attempt made on the part of the Chicago-St. Paul lines May 15th, to advance the packing house rates or reduce the live stock rates?

Mr. JOHNSON: I do not recall.

Mr. TOMLINSON: You, of course, are aware of the fact that as the rates are adjusted now in Wisconsin and Minnesota territory to Chicago as compared with fresh meats and packing house products, you are not complying with the principles laid down in the case of the Chicago Board of Trade against the Chicago & Alton Road?

Mr. JOHNSON: We are trying to as well as we can. We have made the rate on cattle 15½ cents.

Mr. TOMLINSON: I understand that is on business beyond. A large portion of this business at St. Paul comes from the East and South.

2557 Mr. JOHNSON: Not with us.

Mr. TOMLINSON: Not with you, but you testified that it did probably by other lines. Naturally the existence of a 25 and 27-cent rate would be a gross prejudice against the people operating here at the yard, don't you think so? Is not that almost a mathematical certainty?

Mr. JOHNSON: Well, I am not good on mathematics. I could not tell you.

Mr. TOMLINSON: Does it not have a tendency to draw business in to St. Paul?

Mr. JOHNSON: Not by our road.

Mr. TOMLINSON: Other lines have the business?

Mr. JOHNSON: Naturally where the live stock exists, it would be the tendency. The same prevails in Iowa as to stock going to Kansas City and Omaha.

Mr. TOMLINSON: Do you know how far south in Iowa on some of these other lines the St. Paul market draws stock?

Mr. JOHNSON: Probably as far south as Mason City.

Mr. TOMLINSON: The packing at St. Paul has increased considerably the last four or five years, has it not?

Mr. JOHNSON: As it has everywhere else. I do not think it has unduly increased.

Mr. TOMLINSON: Do you know whether your rates on live stock from Wisconsin and Minnesota points are higher than for equal distances out in Iowa and Missouri?

2558 Mr. JOHNSON: They are higher in Wisconsin.

Mr. TOMLINSON: Is there any justification for the higher rate?

Mr. JOHNSON: The justification is fixed by the railway commission.

Mr. TOMLINSON: Do railway commissioners usually fix them higher?

Mr. JOHNSON: I do not know, but the railroad commissioners in our State *has* authorized a certain basis of rates.

Mr. TOMLINSON: Interstate rates?

Mr. JOHNSON: No, State rates.

Mr. TOMLINSON: I am referring to the rates from Minnesota and Wisconsin into Chicago.

Mr. JOHNSON: I cannot speak of Minnesota rates, but Wisconsin rates, I think, run higher than from Illinois points.

Mr. TOMLINSON: Or Iowa points.

Mr. JOHNSON: Yes, sir. There are stations in Iowa—and I am entirely familiar with that, because I handled stock out in Iowa for 15 years—there are stations in Iowa where we will pick up three or four cars of stock every day in the shipping season and there are stations in Wisconsin where you will not get but very little.

Mr. TOMLINSON: I am referring to the general density of traffic by your line.

2559 Mr. JOHNSON: It is not as great in Wisconsin as in Iowa.

Mr. TOMLINSON: Are you quite certain of that?

Mr. JOHNSON: Quite certain. There is not as much population. It is not as thickly settled.

Mr. TOMLINSON: There are not as many miles of railroad.

Mr. JOHNSON: There is no reason why there should be.

Mr. TOMLINSON: What is the per ton density per mile of road?

Mr. JOHNSON: I do not know.

Mr. TOMLINSON: Would you have any objection to filing your annual report in this case?

Mr. JOHNSON: Not the slightest.

Mr. TOMLINSON: May I consider that in evidence.

The CHAIRMAN: Yes, and it may be marked as an exhibit in connection with Mr. Johnson's testimony.

(The same is hereto annexed and marked, "Exhibit No. 8, Johnson.")

Mr. BIRD: You said the rates in Wisconsin were fixed by the Commission, the Wisconsin rates. The rates from all points in Wisconsin to Milwaukee, the chief market city of that State, are the maximum rates made by the Commission, are they not?

Mr. JOHNSON: Yes sir.

Mr. BIRD: With the exception of a small circle in the vicinity of Milwaukee, are the rates from all Wisconsin points to Chi-

2560 cago the same as they are to Milwaukee? Is not the Milwaukee rate the maximum to Chicago for short distances where a distance tariff would make it less?

Mr. JOHNSON: That is right.

Mr. BIRD: So that so far as rates on live stock from Wisconsin to Chicago are concerned——

Mr. JOHNSON: They are the same as to Milwaukee except for a limited territory. That is right.

Commissioner PROUTY: Suppose you were compelled in some way to make the live stock rates the same as the packing house rates, what would you do—reduce the live stock or advance the other?

Mr. JOHNSON: In the case of the St. Paul rate?

Commissioner PROUTY: Yes sir.

Mr. JOHNSON: I would advance them both, because I think the

basis on which we are hauling them is lower than a compensatory basis. I do not go quite as far as Mr. Bird does in saying that all the rates are too low, but there are quite a number that are too low. I have a rate in mind that I think is a fair rate, the rate on dressed poultry.

Commissioner PROUTY: That is the first-class rate?

Mr. JOHNSON: Dressed poultry in car loads, and butter and eggs from St. Paul to Chicago are 40 cents a hundred. I think that is a fair rate, justified by commercial conditions and justified by
2561 the risk attending the transportation of the property. Dressed poultry is transported in the same kind of cars and under the same kind of conditions as to safety for the preservation of the property as fresh beef. We get 40 cents for transporting dressed poultry and relatively only 18 or 20 cents for dressed beef, and when you go to a butcher shop you buy the poultry for 18 cents and pay 22 for the dressed beef. There is a condition that I do not think right. I think the rate on dressed poultry is fair and the rate on dressed beef is too low.

Mr. COWAN: Does it not take a good many chickens to make a train load of poultry?

Mr. JOHNSON: Yes, sir.

Mr. COWAN: It is a very rare occurrence to have a train load of dressed poultry.

Mr. JOHNSON: Yes, I am speaking of St. Paul. The car load is the measure there.

Commissioner PROUTY: You say that in your opinion the rate on packing house products ought to be higher than that on stock and still you are making rates considerably lower. How do you justify that?

Mr. JOHNSON: In this way: We are making a rate lower on packing house products from St. Paul than we do on live stock from St. Paul, but there is no live stock originating at St. Paul. Neither did this packing house product, from our point of view, originate
2562 at St. Paul. It originated west of St. Paul on the hoof and was made into packing house products at St. Paul. *Ergo*, it is not packing house products really, but live stock.

Commissioner PROUTY: You justify the present conditions of things by looking to the point of origin of the traffic.

Mr. JOHNSON: The change of form from live stock to packing house product is merely an incident of the manufacture. That live stock did not originate at St. Paul, but it originated beyond and it must be considered not with our local from St. Paul on live stock, which is a dead letter, but with the proportional on live stock.

The CHAIRMAN: That is to say, having reference to actual movement of the traffic, your rate on the live animal is only slightly in excess of the rate on the dressed beef.

Mr. JOHNSON: Yes, very slightly.

The CHAIRMAN: So, if the Commission should rule in this case that the rate on the live animals should in no case exceed the rate on dressed products and you are obliged to conform to that ruling,

you could do it and would not go out of the dressed meat business, as Mr. Bird intimated his company would?

Mr. BIRD: I would like to ask Mr. Johnson if that opinion is not bases largely on the fact that he has scarcely any live stock business originating this side of St. Paul that would be affected.

2563 Mr. JOHNSON: Very little. It does not amount to 1 per cent. of our live stock business—hardly 1 per cent.

Mr. BIRD: The conditions that would affect you might be very unlike the conditions that affect the St. Paul Road at *at* Omaha and Sioux City.

Mr. JOHNSON: True.

Mr. BIRD: In other words, one case the effect would be enormous, and in the other, insignificant.

Mr. JOHNSON: That is right.

Mr. BIRD: I want to make it plain that the rates on live stock from all points in Wisconsin to the chief markets in that State are not only satisfactory to the Commissioners, who have reviewed them for years past, but they are not the subject of any complaint by the producer or consumer there, and notwithstanding that fact those rates are as substantially applied to Chicago for nearly 100 miles additional service; so that rates that are satisfactory to the people and State authorities in Wisconsin are applied to Chicago and the haul is 85 to 100 miles farther.

Mr. JOHNSON: That is right.

Mr. BIRD: Chicago is practically on a parity with Milwaukee and you have wiped out the question of distance.

Mr. JOHNSON: Yes, that is right.

Mr. TOMLINSON: On rates from the West to Chicago, and Milwaukee, Milwaukee takes the same rate as Chicago, does it not.

Mr. JOHNSON: Yes sir.

The CHAIRMAN: That seems to be all.

(The witness was excused.)

2564 Mr. COWAN: I wish to introduce in evidence, as a part of Mr. Peabody's testimony, two statements which he has furnished, one showing the relative number of cars shipped from August 31st, to December 31st, for the year 1902, 10,801 cars; the year 1903, 10,801 cars and the year 1904, 12,890 cars with the percentages of the Atchison, Topeka & Santa Fe cars used in the shipments. Also a statement which he was requested by the court to furnish, of the total amount of loss and damage claims on dressed meats and packing-house products during the year ending June 30th, 1905, total $3,892.00.

(The statements were marked General Exhibit No. 8.")

Mr. BAXTER: He also shows that all of that *expect* $8.60 was paid on account of wrecks.

Mr. COWAN: We will have for the purpose of offering in evidence

as a part of Mr. Crosby's testimony, the statements which he was requested to furnish.

Mr. DAWES: He will be here later with them.

Mr. COWAN: He will be here later in the day.

Mr. DAWES: I expect him any minute.

Mr. COWAN: I will leave them until he comes in. We also have statements of the train consists on the Chicago & North Western that have been made up by them and they will be introduced formally to-day and it is possible that it may not be necessary to
2565 have any witness in either case as we have agreed to introduce them together with certain explanations which go along with the statement.

There were some tariffs introduced in evidence as a part of the testimony of Mr. Mahoney, and I understood from Mr. Mahoney that he wanted to get the tariffs out in order to make some explanation of some typewritten statement that was contained therein, or make some copy of it or something of the sort. I presume that they were however refiled with his testimony. In addition to that there will be possibly, two or three different tariffs that we may want to use. I would like any of the gentlemen who desire to use any tariffs that they have not introduced—I am willing to concede that they may do so without objection, if they will make the same concession to us.

The COURT: Yes, I guess so. Now, are you through?

Mr. COWAN: I have a witness here, Mr. Ryan from Iowa, the Secretary of the Meat Producers Association of the state of Iowa, who wrote us a letter saying that he desired to appear and testify in the case and we wrote him to come on and he is here. We will be a very short witness and I would like to have him testify and then there are a few questions to ask Mr. Tomlinson and some exhibits which, in the hurry of Friday, were not introduced, and Mr. Witten
2566 has some explanatory statements called for, and with those things, I think our evidence will be concluded.

Mr. BAXTER: The defendants desire to put in evidence table XLVIII, page 86 of the appendix G of the Sixteenth Annual Report of the Interstate Commerce Commission. I omitted to put that in when I was putting in the other tables from the same report.

The COURT: All right.

W. S. WITTEN, having been duly sworn as a witness on behalf of the complainant in rebuttal, resumed the stand for further direct examination by Mr. Cowan, and testified as follows:

The COURT:

Q. Where do you live?

A. The Transit House, Union Stock Yards.

Mr. COWAN:

Q. You were asked the other day to produce a statement showing the actual time that trains were on your tracks which bore live stock

Documentary Evidence for Defendants.

1566a

Appendix G. to 16 Ann. Rep. I. C. C.

Table XLVIII.—Freight Rates Charged for the Transportation of Live Stock and Dressed Meats from Chicago to New York via All-Rail Lines from March 26, 1872, to April 1, 1902.

Date.	Rates in cents per 100 pounds.							Date.	Rates in cents per 100 pounds.						
	Cattle.	Hogs.	Sheep.	Horses and mules.	Dressed beef.	Dressed beef, in refrigerator cars.	Dressed beef, common cars.		Cattle.	Hogs.	Sheep.	Horses and mules.	Dressed beef.	Dressed beef, in refrigerator cars.	Dressed beef, common cars.
1872—Mar. 26					90			1887—Nov. 28	50	30	21	60	34½	34½	34½
Nov. 20					90			Nov. 28	10	30	10	60	17½	17½	34½
1874—Dec. 1					70			Dec. 30	25	30	25	60	25	25	25
1875—Nov. 2					70			1888—May 14	25	29	25	60	25	25	25
1876—Nov. 18					65			June 18	10½	25	25	60	25	25	25
1877—Apr. 30					85			June 27	10½	25	45	60	30	30	30
Sept. 4					75			June 28	10½	25	25	60	25	25	25
Oct. 22					75			June 29	10½	25	25	60	30½	30½	30½
1878—Sept. 2					90			July 2	10½	25	25	60	30½	30½	30½
1879—June 9	35	35	60	60	67½			July 3	12½	25	25	60	25	25	25
June 26	35	35	60	60	56			July 5	11	30	25	60	25	25	25
Aug. 4	50	40	60	60	80			July 6	10	30	25	60	17½	17½	17½
Aug. 7	50	45	60	60	80			July 7	10	30	25	60	17½	17½	17½
Oct. 12	50	50	60	60	80			July 9	10	30	25	60	12½	12½	17½
Nov. 10	55	55	65	65	88			July 10	10	30	25	60	12	17	17
1880—Mar. 1	55	60	65	65	88			July 11	10	30	25	60	10½	10½	10½
Apr. 14	55	60	65	65	88			July 12	10	30	25	60	9	9	9
Sept. 20	55	55	65	65	88			July 15	10	30	25	60	17½	22½	22½
Nov. 1	55	60	65	65	88			July 14	10	30	25	60	17	17	17½
1881—Mar. 14	50	55	60	60	80			Aug. 8	10	30	25	60	17½	17½	17½
Apr. 1	50	55	60	60	80			Aug. 20	10	30	25	60	25	25	25
May 9	55	55	60	60	80			Aug. 25	10	30	25	60	25	25	25
June 8	55	60	60	60	80			Sept. 24	10	30	25	60	25	25	25
June 15	55	55	60	60	80			Oct. 15	15	30	25	60	25	25	25
1882—Mar. 13	55	60	60	60	80			Oct. 22	15	30	25	60	25	25	25
Apr. 17	60	60	60	60	84			Nov. 7	15	30	25	60	30	30	30
Dec. 1	60	55	60	60	84			Dec. 17	22½	30	30	60	30	30	30
1883—Apr. 23	60	60	60	60	84			1889—May 1	20	30	30	60	45	45	45
Nov. 26	60	55	60	60	84			1890—Jan. 25	20	35	30	60	45	45	45
1884—Jan. 5	40	35	50	60	64			June 16	22½	35	30	60	45	45	45
Jan. 14	40	35	50	60	64			June 20	22½	35	30	60	50	50	50
Mar. 14	40	35	50	60	64			June 28	21	35	30	60	50	50	50
Mar. 21	40	30	50	60	64			June 30	18½	35	30	60	50	50	50
May 5	30	25	40	60	48			July 3	18	35	30	60	50	50	50
June 24	30	25	40	60	48			July 11	18	28	30	60	45	45	45
July 21	30	30	40	60	48			Nov. 24	26	30	30	60	45	45	45
Sept. 1	30	30	40	60	72			1891—Apr. 20	25	30	30	60	45	45	45
Dec. 8	40	30	50	60	79			1892—June 16	25	30	30	60	45	45	45
1885—Mar. 23	40	25	50	60	79			Oct. 10	25	30	30	60	45	45	45
May 5	30	25	40	60	52½			1893—Dec. 11	25	224	30	60	45	45	45
July 1	25	30	40	60	43½			Dec. 18	25	30	30	60	45	45	45
July 13	25	25	40	60	43½			1894—Jan. 1	25	30	30	60	45	45	45
Nov. 23	25	30	40	60	43½			Sept. 4	25	30	30	60	45	45	45
1886—Jan. 1	25	30	35	60	43½	35	35	Sept. 22	25	30	30	60	45	45	45
Mar. 1	35	30	45	60	65	35	50	1895—June 27	25	25	30	60	45	45	45
Dec. 20	35	35	45	60	65	35	50	July 1	25	30	30	60	45	45	45
1887—Apr. 22	35	35	45	60	65	35	50	July 28	25	30	30	60	45	45	45
June 1	35	35	45	60	65	45	60	1899—Feb. 1	25	25	25	60	45	45	45
Nov. 21	31½	30	36	60	56½	39½	54	1900—Jan. 1	25	30	30	60	45	45	45
Nov. 23	22½	20	22½	60	52½	52½	48	1901—July 29	25	30	30	60	45	45	45
Nov. 24	22½	20	22½	60	47	47	43	1902—Jan. 1	25	30	30	60	45	45	45
Nov. 25	25	30	26	60	42½	42½	39	Apr. 1	25	30	30	60	45	45	45
Nov. 26	20½	30	23½	60	38½	38½	35								

Note.—For changes in the minimum carload weights governing the commodities shown above (from 1867), in carloads, see Table IV.

in to the stock yards in Chicago, and showing the average number of cars in a train.

A. Yes sir.

Q. And possibly there were some other statistics that you were asked to prepare by the defendants' counsel. Have you those statements?

A. Yes sir.

(Here follows Appendix G, marked p. 2566*a*.)

2567 Q. Will you introduce them as a part of your testimony and explain what they show as briefly as you can.

A. Yes. I was to show the size of the trains and the time the trains were on our tracks.

Q. Speak out, so we can hear you.

A. And the time consumed in hauling those trains over our tracks. I believe that is as near as I can remember the statement.

The COURT:

Q. Well, what does it show?

A. A summary showing the number and size of all stock trains, received from the railroads named at the stock yards, Chicago, during all the Mondays and Wednesdays of August, 1905; the time consumed in handling the same from terminal tracks to our unloading chutes as shown by train sheets of Chicago Junction Railway. Now, this has been divided off into sections, showing the number of trains of 5 cars or less, the number of trains of 6 cars to 15 cars, the number of trains 16 to 25, the number of trains, 26 to 35 and the number of trains of 36 cars and over. The C. B. & Q. received 19 trains of 5 cars or less.

Mr. DAWES: That is you received them from the Q.?

A. We received from the C. B. & Q., *of* 5 cars or less, 19 trains consisting of 53 cars or an average of 2.8 cars per train. The
2568 time consumed on our tracks to set to the chutes——

The COURT: Well, is it necessary to read all that? Why don't you just file this?

Mr. COWAN: I don't think it is necessary to read them.

Mr. DAWES:

Q. Have you averaged them up there?

A. I have the average of each road and the general average.

Q. What is the average of time consumed on the tracks for each road there?

A. The average time for each road, you mean? I have the average time for all the roads or for each road.

Q. Well, take all of them.

A. The average time for each road was 29.5 minutes in and 24.8 minutes back.

The COURT:

Q. That is where?

A. On our tracks pulling in and out. The unloading is not included at all.

Mr. LYNDE:

Q. The period covered by this statement is August, is it?

A. Yes.

Q. You have not got anything to show any winter average, have you?

A. No sir.

Q. Is it not a fact that the time in the winter is very much
2569 longer and that you are more liable to have snow storms and blockades?

A. Yes, some longer.

Q. Is it not also true that the movement of cattle into Chicago is much heavier from January on, in the winter time, than it is in August?

A. August, September and October are about the heaviest months we have.

Q. Other witnesses have testified that the heavy movement was in the——

A. Of all kinds of stock?

Q. Commencing from January first on?

A. Of all kinds of stock?

Q. I am talking about cattle.

A. Well, about the largest receipts we have are in September, October and November, of cattle.

Q. August is not then a representative period?

A. It is more than the average, yes sir.

Q. As showing what the movement is?

A. I think it is a little more than the average of cars of cattle received but, of course, it is, the weather being good, we would handle it a little faster in August than in the winter time.

Q. A good deal faster, wouldn't you?

A. No sir, I could not tell exactly but it would be some faster, yes sir.

Mr. DAWES:

Q. Is it not a fact that your tracks during the winter
2570 months are occupied with traffic, congested with traffic to a greater extent, much greater than in August?

A. I think they are but I could not state positively.

cattle, and other delays, would be—The delay would be increased for the larger movement of other freight, would it not?

A. Well, to some extent, but not in proportion, I don't think, to the number of cars received.

Q. There are many more cars received on your tracks during the winter months than during August, are there not?

A. There are some more.

Q. Of all kinds, I mean?

A. In my opinion there are some more, yes sir.

Q. Can't you give some estimate of that?

A. No sir, I cannot, because I have not anything to do with it, only with handling of the stock.

Q. How did you happen to select August?

A. You asked me to.

Q. Who?

A. I was asked to select that month.

Q. Do you remember who asked you to?

A. No sir, I do not.

The COURT: Well, file your statement.

Mr. BAXTER:

Q. The time that you have shown on those shipments, as
2571 being the time occupied by the trains, I understand is only the time occupied on your own tracks?

A. Yes sir.

Q. And it does not include the time from leaving the termini of these different roads that enter Chicago, until the cars get back to their rails?

A. Yes sir.

Mr. DAWES: What do you mean by that, it does or it does not?

A. It just gives the time that they are on our own terminals.

(The statement produced by the witness is marked "Written's Exhibit A, October 11, 1905 F. B. D.")

(Witness excused.)

T. W. TOMLINSON, having been duly sworn as a witness on behalf of the complainant in rebuttal, resumed the stand for further direct examination by Mr. Cowan, and testified as follows:

Q. Are you ready to proceed?

A. Yes.

Q. When the court adjourned Friday you were filing some exhibits relative to the cost of handling fresh meat and packing-house product, compared with live stock and you

General Summary showing the number and size of Stock trains received from the railways named at the Union Stock Yards Chicago, during all the Mondays and Wednesdays of August 1905, and time consumed in handling same over terminal tracks to and from unloading chutes as shown by train sheets of Chicago Junction Railways.

Size of Trains	5 Cars or less.						6 to 15 Cars.						16 to 25 Cars.						26 to 35 Cars.						36 Cars or over						Total - All trains.						Percentages.	
	Cars.			Avg time per train			Cars			Avg time per train			Cars			Avg time per train			Cars			Avg time per train			Cars			Avg time per train			Cars			Avg time per train			Total	Total
R. R.	No. of trains	No. of Cars	Avg No Cars per train	In	Out	Total	No. of trains	No. of Cars.	Avg No Cars per train	In	Out	Total	No. of trains	No. of Cars.	Avg No Cars per train	In	Out	Total	No. of trains	No. of Cars	Avg No Cars per train	In	Out	Total	No. of trains	No. of Cars	Avg No Cars per train	In	Out	Total	No. of trains	No. of Cars	Avg No Cars per train	In	Out	Total	Trains %	Cars %
C.B.Q.	19	53	2.8	m. 19.3	m. 17.6	m. 36.9	18	193	10.7	m. 19.0	m. 17.6	m. 36.6	17	366	21.5	m. 19.8	m. 22.8	m. 42.6	25	751	30.0	m. 24.2	m. 24.6	m. 48.8	55	1566	46.2	m. 30.6	m. 24.1	m. 54.7	134	3929	29.3	m. 24.2	m. 22.3	m. 47.5	30.5	36.3
C.M.St.P.	10	17	1.7	m. 37.2	m. 19.6	m. 56.8	9	112	12.4	m. 45.2	m. 22.2	m. 67.5	26	567	21.8	m. 41.2	m. 19.6	m. 61.6	33	1022	31.0	m. 46.2	m. 21.0	m. 66.2	18	694	38.5	m. 54.6	m. 50.3	m. 104.9	96	2412	25.1	m. 48.2	m. 26.1	m. 74.3	21.9	22.2
C.M.&St.P.	3	6	2.0	m. 24.2	m. 52.2	m. 76.2	26	291	11.2	m. 31.8	m. 46.2	m. 77.8	23	475	20.6	m. 22.2	m. 37.5	m. 59.5	32	960	30.0	m. 25.6	m. 29.2	m. 54.8	15	609	40.6	m. 32.2	m. 40.1	m. 72.3	99	2341	23.7	m. 27.8	m. 32.8	m. 60.6	22.6	21.6
C.&W.	15	41	2.7	m. 27.4	m. 28.6	m. 56.0	8	93	11.6	m. 26.5	m. 22.2	m. 48.7	8	149	18.6	m. 23.2	m. 31.2	m. 54.4	2	58	29.0	m. 35.5	m. 10.5	m. 46.0	1	37	37	m. 20.0	m. 9.0	m. 29.0	34	378	11.1	m. 26.2	m. 26.2	m. 55.2	7.7	3.5
C.R.I.&P.	6	18	3.0	m. 9.3	m. 5.2	m. 14.5	17	133	11.2	m. 17.5	m. 9.2	m. 26.7	21	460	21.9	m. 14.2	m. 6.2	m. 20.4	6	184	31.0	m. 17.2	m. 6.2	m. 23.4	17	502	41.2	m. 29.2	m. 7.5	m. 37.7	57	1277	22.2	m. 17.2	m. 6.2	m. 24.2	13.0	12.0
Ill. Cent.	—	—	—	—	—	—	3	32	10.7	m. 21.3	m. 18.2	m. 39.5	6	119	19.8	m. 21.2	m. 22.2	m. 43.4	7	215	30.7	m. 48.1	m. 15.6	m. 63.7	3	111	37	m. 39.6	m. 17.2	m. 57.8	19	477	25.1	m. 34.2	m. 18.5	m. 52.7	4.3	4.4
Total	53	135	2.5	m. 24.2	m. 21.6	m. 45.8	76	854	11.2	m. 27.1	m. 27.0	m. 54.1	101	2136	21.1	m. 25.1	m. 22.6	m. 47.7	105	3190	30.4	m. 32.7	m. 23.0	m. 55.7	104	4519	43.5	m. 35.2	m. 28.2	m. 63.4	439	10834	24.7	m. 29.5	m. 24.5	m. 54.0	100.0	100.0

Trains of 5 Cars or less - - - -	53	135	2.5	m. 24.2	m. 21.6	m. 45.8	12.1	1.2
Trains of 6 to 15 Cars each - - - -	76	854	11.2	m. 27.1	m. 27.0	m. 54.1	17.3	7.9
Trains of 16 to 25 Cars each - - - -	101	2136	21.1	m. 25.1	m. 22.6	m. 47.7	23.0	19.7
Trains of 26 to 35 Cars each - - -	105	3190	30.4	m. 32.7	m. 23.0	m. 55.7	23.9	29.5
Trains of 36 Cars or over - - -	104	4519	43.5	m. 35.2	m. 28.2	m. 63.4	23.7	41.7
Total - - - - - -	439	10834	24.7	m. 29.5	m. 24.5	m. 54.0	100.0	100.0

(Exact Origin) Indirect Delay in Minutes to Trains at Chicago Junction Yards

Statement showing the number and size of Stock Trains received from the Chicago, Burlington & Quincy Railway at Union Stock Yards, Chicago, during all the Mondays and Wednesdays of August, 1905 and time consumed in hauling same to and from unloading chutes as shown by train sheets of Chicago Junction Railway.

C B & Q Ry

E. J. & E. Ry.

Date	Trains of 5 Cars or less: Engine No.	No. Cars	Brighton to Set	Empty to Brighton
8/7 '05	1912	1	18. Min	10 Min
" "	1924	1	11. "	10 "
" "	1420	3	15 "	30 "
8/9 '05	1800	4	27 "	12 "
" "	1961	5	20 "	37 "
8/14 '05	1390	2	25 "	20 "
" "	1965	2	9 "	14 "
8/16 '05	1917	4	12 "	10 "
" "	1814	5	20 "	14 "
" "	1438	2	50 "	18 "
8/21 '05	1935	1	23 "	11 "
" "	23	1	16 "	33 "
" "	1408	4	15 "	30 "
8/23 '05	1809	5	18 "	14 "
8/28 '05	1420	1	35 "	10 "
" "	1933	3	12 "	10 "
" "	1414	2	16 "	25 "
8/30 '05	1922	2	15 "	15 "
" "	1929	5	13 "	11 "
Total	19	53	368	334

Date	Trains of 6 to 15 Cars: Engine No.	Car No.	Brighton to Set	Empty to Brighton
8/2 '05	1133	11	15 Min	16 Min
" "	1967	13	18 "	14 "
" "	1965	11	28 "	37 "
8/7 '05	1900	15	14 "	11 "
8/9 '05	1177	8	16 "	16 "
" "	1925	6	16 "	26 "
8/14 '05	1966	11	33 "	10 "
" "	1904	8	12 "	17 "
" "	1408	7	10 "	25 "
8/16 '05	1966	9	13 "	10 "
" "	1914	14	37 "	16 "
8/21 '05	1902	14	29 "	13 "
" "	1923	10	23 "	36 "
" "	1809	7	21 "	20 "
8/23 '05	1174	10	15 "	9 "
" "	1976	13	15 "	12 "
" "	1831	15	15 "	18 "
8/30 '05	1916	11	12 "	11 "
Total	18	193	342	317

Date	Trains of 16 to 25 Cars: Engine No.	Car No.	Brighton to Set	Empty to Brighton
8/2 '05	1932	22	10 Min	10 Min
8/7 '05	1946	23	42 "	11 "
8/14 '05	1913	24	12 "	16 "
8/16 '05	1968	25	18 "	12 "
" "	1831	23	11 "	47 "
8/21 '05	1965	18	8 "	11 "
" "	1926	23	8 "	14 "
" "	1390	17	23 "	45 "
8/23 '05	1133	18	12 "	19 "
" "	1939	22	21 "	11 "
8/28 '05	1938	24	11 "	13 "
" "	1923	18	25 "	25 "
8/30 '05	1965	22	13 "	11 "
" "	1944	22	13 "	17 "
" "	1831	19	49 "	31 "
" "	1928	24	44 "	52 "
" "	1800	22	17 "	42 "
Total	17	366	337	387

Date	Trains of 26 to 35 Cars: Engine No.	No. Cars	Brighton to Set	Empty to Brighton
8/2.05	3119	35	17 Min	38 Min
8/7.05	1923	28	15 "	10 "
8/9 '05	1974	27	17 "	16 "
" "	1906	35	18 "	13 "
" "	1965	28	18 "	11 "
" "	1930	29	34 "	14 "
" "	1927	34	22 "	60 "
8/16.05	1184	31	20 "	13 "
" "	1929	30	12 "	15 "
" "	1820	26	21 "	12 "
" "	1937	26	15 "	22 "
" "	1977	31	20 "	30 "
" "	1909	30	80 "	35 "
8/21'05	1966	30	20 "	10 "
" "	1967	31	32 "	30 "
" "	1150	32	24 "	16 "
" "	1921	27	21 "	10 "
" "	1975	29	12 "	23 "
" "	1932	34	15 "	13 "
8/23'05	1936	30	50 "	10 "
" "	1921	28	15 "	14 "
" "	1912	30	14 "	12 "
8/28'05	1937	35	20 "	10 "
8/30'05	1967	27	38 "	9 "
" "	1939	28	32 "	17 "
Total	25	751	602	616

Date	Trains of 36 Cars or Over: Engine No.	Car No.	Brighton to Set	Empty to Brighton
8/2.05	1928	37	10 Min	15 Min
" "	1927	55	20 "	26 "
" "	1978	52	24 "	24 "
" "	1975	39	22 "	15 "
" "	1917	59	48 "	14 "
" "	1923	47	28 "	15 "
" "	1935	40	26 "	25 "
8/7 05	1925	55	41 "	20 "
" "	1932	56	67 "	22 "
" "	1914	44	79 "	25 "
" "	1910	53	12 "	18 "
" "	1935	63	28 "	27 "
8/9 '05	1976	37	20 "	10 "
" "	1912	39	15 "	13 "
" "	1977	51	14 "	86 "
" "	1922	53	60 "	43 "
" "	1934	49	78 "	14 "
8/14 05	1935	48	19 "	10 "
" "	1976	39	18 "	11 "
" "	1920	60	34 "	23 "
" "	1916	39	16 "	15 "
" "	1414	38	23 "	27 "
" "	1922	43	14 "	12 "
" "	1921	40	19 "	21 "
" "	1914	46	18 "	19 "
" "	1903	41	15 "	15 "
8/16 05	1920	38	20 "	15 "
" "	1916	37	20 "	18 "
8/16 05	1935	44	21 Min	29 Min
" "	1927	46	24 "	47 "
" "	1912	36	51 "	10 "
" "	1931	52	36 "	19 "
" "	1978	46	43 "	8 "
8/21'05	1910	49	17 "	9 "
" "	1916	43	20 "	15 "
" "	1977	70	40 "	50 "
" "	1913	60	20 "	17 "
" "	1930	44	38 "	14 "
8/23'05	1921	58	25 "	18 "
" "	1967	42	18 "	12 "
" "	1902	40	20 "	11 "
8/28'05	1965	36	15 "	55 "
" "	1974	44	26 "	16 "
" "	1979	54	23 "	15 "
" "	1916	47	39 "	9 "
" "	1931	38	51 "	7 "
" "	1939	46	37 "	11 "
" "	1976	40	53 "	11 "
" "	1978	56	21 "	16 "
8/30'05	1976	38	45 "	22 "
" "	1921	45	35 "	8 "
" "	1935	52	39 "	34 "
" "	1900	49	27 "	20 "
" "	1978	50	32 "	102 "
" "	1908	42	54 "	145 "
Total	55	2566	1678	1328.

Summary

Size of Trains	No. of Trains	Cars	Ave. No. Cars per Train	Ave. Time per min. Out	Total
5 Cars & less	19	53	2.8	18	36
6 to 15 Cars	193	1763	9.1	17	34
16 to 25 Cars	337	7667	22.7	24	46
26 to 35 Cars	602	19,274	32	27	59
36 Cars or over	1678	58,724	35	27	62
Total	2829	87,481			

Statement showing the number and size of Stock Trains sent from Chicago C. & North-Western Railway to Union Stock Yards, Chicago, during all the Mondays and Wednesdays in August, 1905, and

C. & N. W. Ry

times consumed in handling same on or through inbound tracks as shown by train sheets of

Chicago Junction Railways

C. & N. W. Ry.

Date	Trains of 5 Cars or less: Engine No.	Cars	Time Left	Time Arrived Brighton	Trains of 6 to 15 Cars: Date	Engine No.	Cars	Time Left	Time Arrived Brighton	Trains of 16 to 25 Cars: Date	Engine No.	Cars	Time Left	Time Arrived Brighton	Trains of 26 to 35 Cars: Date	Engine No.	Cars	Time Left	Time Arrived Brighton	Trains of 36 Cars or Over: Date	Engine No.	Cars	Time Left	Time Arrived Brighton
8/2 '05	770	1	44. Min	42. Min	8/2 '05	210	15	73. Min	57. Min	8/2 '05	230	16	21. Min	10. Min	8/2. 05	267	39	57. Min	31. Min	8/2 '05	919	35	72. Min	33 Min
" 7 "	346	2	84 "	9 "	" "	275	10	57. "	23. "	8/7. 05	1015	24	21. "	19. "	" "	513	32	35 Min	49. "	8/7 '05	878	40	36 "	35. "
8/9. '05	870	1	50. "	18. "	" "	442	14	95 "	19 "	8/7 '05	332	24	48 "	21. "	8/7.05	880	34	30 "	11. "	8/7 '05	866	40	78 "	30. "
8/14. '05	878	2	24 "	17 "	8/9 '05	263	15	39 "	14. "	8/7 '05	1135	21	33 "	9. "	8/7.05	181	34	40. "	11. "	8/7 '05	905	36	40 "	19. "
8/21. '05	308	2	48 "	16 "	8/16 '05	206	7	55 "	12 "	8/9. '05	46.	22	47. "	23 "	8/7.05	16.	35	29 "	18. "	8/7 '05	46.	43	95. "	30 "
8/23. '05	255	3	18 "	15. "	8/23.05	66.	8	32. "	11 "	8/9 '05	867.	24	29. "	13. "	8/9 '05	86.	32	45. "	13. "	8/14 '05	181	46	63. "	12 "
8/23 '05	181	1	30 "	15. "	8/21.05	819.	15	34 "	33 "	8/14 '05	206.	24	23 "	18. "	8/9.05	880	33	57. "	10 "	8/14 '05	267.	39	59. "	30 "
8/23 '05	235	1	25 "	16. "	8/28.05	1147.	13	54 "	27 "	8/14 '05	210.	20	28. "	13. "	8/9.05	209.	31	73 "	14 "	8/14 '05	86.	40	35 "	32 "
8/28 '05	284	1	30 "	30 "	8/30.05	1163	15	29 "	18 "	8/16 '05	1018.	24	28 "	13. "	8/9.05	861.	28	53 "	39. "	8/14 '05	866.	41	31. "	48 "
8/30.05	14	3	23 "	18. "	Total	9	112	496 "	207 "	8/16.05	346.	23	24 "	17 "	8/14.05	96.	33	35. "	21. "	8/16.05	132.	49	101. "	210 "
Total	10	17	372 "	196 "						8/16.05	1148.	15	35. "	16. "	8/14.05	343.	30	33. "	23. "	8/21.05	46.	39	35 "	53 "
										8/16.05	267.	25	31. "	17. "	8/16.05	261.	28	59. "	22. "	8/21.05	1125	28	92. "	17 "
										8/16.05	184.	24	60. "	11 "	8/16.05	866.	33	33. "	16. "	8/21.05	261.	37	57. "	77 "
										8/16.05	1125	23	39. "	15. "	8/16.05	281.	28	64. "	49. "	8/30.05	747.	39	48. "	18 "
										8/21.05	337.	25	55. "	14 "	8/21.05	763.	35	28. "	12. "	8/28.05	267.	37	65. "	17 "
										8/21.05	867.	19	30. "	13 "	8/21.05	86.	30	32. "	13 "	8/28.05	216.	36.	49 "	23 "
										8/23.05	1109.	16	59. "	16 "	8/21.05	1148.	30	32. "	15 "	8/30.05	1077.	36	53 "	76 "
										8/28.05	878.	19	47. "	18. "	8/24.05	116.	27	53 "	15 "	8/30.05	1001.	38	58 "	73 "
										8/23.05	861.	21	33. "	14. "	8/27.05	83.	31	44. "	17 "	Total	18	694	983 "	406 "
										8/28.05	919.	24	49. "	23. "	8/24.05	331.	25	57 "	22 "	Trains of 36 Cars or Over				
										8/28.05	867.	23	35. "	21 "	8/27.05	189.	33	40 "	12 "	8/28.05	72.	35	39 Min	12 Min
										8/28.05	336.	20	61. "	19 "	8/28.05	209.	29	48 "	20 "	" "	883.	27	75 "	29 "
										8/28.05	77.	35	73. "	22 "	8/28.05	885.	31	27 "	57 "	" "	1141.	30	70 "	21 "
										8/30.05	264.	21	50 "	23 "	8/28.05	337.	26	26 "	15 "	" "	12	29	70 "	10 "
										8/30.05	77.	25	67 "	24 "	8/28.05	889.	35	49 "	11 "	8/30.05	867.	29	74 "	13 "
										8/30.05	16.	20	98 "	90 "	8/28.05	763.	27	23 "	12 "	" "	86.	30	83 "	54 "
										Total	26	567	1092 "	509 "	8/28.05	265.	28	34 "	20 "	Total	27	842	1129 "	552 "
															Total	27	842	1129 "	552 "	Total	33	1612	2051 "	1491 "

Summary

	Engines	Cars	Time Left	Time Arrived	Remarks
Trains of 5 Cars or less	10	17	372 "	196 "	
Trains of 6 to 15 Cars	9	112	496 "	207 "	
Trains of 16 to 25 Cars	26	567	1092 "	509 "	
Trains of 26 to 35 Cars	27	842	1129 "	552 "	
Trains of 36 Cars or Over	33	1612	2051 "	1491 "	
Total	105	3150	5140 "	2963 "	

Ended Sept 14 1905

* Note Hold by C. & N. W. Ry on account 35 cars arriving at 2 o'clock for Presentation Aerators. Received & Forwarded 11th

Statement showing the number and size of Work Trains passed from Chicago, Milwaukee & St. Paul Railway at Union Depot Yards, Chicago, during all the Working Days of August 1905, and

C. M. & St. P. Ry.

Time consumed in handling cabins over terminal tracks to and from unloading tracks as shown by train sheets of Chicago Junction Railway.

C.M.&St.P.R.

Date	Trains of 5 Cars or Less	Engine No.	No. of Cars	Engine & Caboose Delay in Set	Engine & Caboose Delay in Brigston	Trains of 6 to 15 Cars	Engine No.	No. of Cars	Engine & Caboose Delay in Set	Engine & Caboose Delay in Brigston	Trains of 16 to 25 Cars	Engine No.	No. of Cars	Engine & Caboose Delay in Set	Engine & Caboose Delay in Brigston	Trains of 26 to 35 Cars	Engine No.	No. of Cars	Engine & Caboose Delay in Set	Engine & Caboose Delay in Brigston	Trains of 36 Cars or Over	Engine No.	No. of Cars	Engine & Caboose Delay in Set	Engine & Caboose Delay in Brigston
8/7 1905	1	1179	4	40 min	72 min	8/2 05		352	8	10 min	14 min	8/2 05		457	24	15 min	62 min	8/2 05		452	30	12 min	20 min	8/2 05		469	38	33 min	22 min
8/14 "	1	408	1	15 "	10 "	" "		1184	13	16 "	62 "	8/7 "		457	25	13 "	12 "	" "		359	34	14 "	92 "	8/9 "		452	43	61 "	30 "
8/28 "	1	1173	1	19 "	74 "	" "		363	14	11 "	20 "	" "		460	20	73 "	30 "	8/7 "		364	33	10 "	25 "	8/14 "		368	37	13 "	18 "
Total		3	6	74 "	156 "	" "		1167	11	21 "	114 "	8/9 "		1173	16	21 "	15 "	" "		458	27	17 "	30 "	" "		1167	38	18 "	140 "
						8/7 "		453	11	23 "	12 "	8/14 "		1169	22	16 "	55 "	" "		1172	29	20 "	29 "	8/16 "		358	48	19 "	16 "
						8/9 "		450	9	88 "	20 "	" "		364	20	10 "	48 "	" "		359	33	37 "	9 "	8/21 "		353	31	26 "	20 "
						" "		459	10	15 "	13 "	" "		353	24	12 "	19 "	" "		365	27	74 "	16 "	8/23 "		358	41	15 "	16 "
						" "		364	13	34 "	12 "	" "		1171	22	14 "	15 "	" "		455	29	62 "	33 "	" "		366	43	19 "	20 "
						" "		455	9	26 "	9 "	" "		1184	20	14 "	111 "	" "		408	26	13 "	14 "	8/28 "		358	40	14 "	17 "
						" "		1176	6	18 "	25 "	8/16 "		1179	16	15 "	155 "	8/9 "		361	34	17 "	18 "	" "		452	36	50 "	22 "
						8/14 "		454	14	23 "	13 "	" "		1163	22	22 "	28 "	" "		458	29	15 "	13 "	" "		497	47	73 "	36 "
						" "		452	9	20 "	32 "	" "		351	18	41 "	26 "	" "		365	34	40 "	13 "	8/30 "		1167	38	16 "	47 "
						8/16 "		640	14	103 "	17 "	8/21 "		1171	25	13 "	21 "	8/14 "		357	35	15 "	10 "	" "		459	42	49 "	82 "
						" "		365	10	22 "	35 "	" "		358	24	29 "	18 "	" "		356	33	15 "	13 "	" "		362	41	34 "	27 "
						" "		1184	10	22 "	145 "	" "		355	17	23 "	18 "	" "		365	32	26 "	21 "	" "		1163	39	51 "	88 "
						" "		452	13	22 "	51 "	8/23 "		486	22	20 "	24 "	" "		351	26	14 "	34 "	Total	15	609	491 "	601 "
						8/21 "		366	14	24 "	16 "	" "		1172	17	15 "	25 "	8/16 "		454	32	22 "	28 "						
						" "		1165	15	33 "	71 "	8/28 "		457	25	21 "	20 "	" "		356	34	15 "	48 "	Trains of 26 to 35 Cars Cont'd					
						8/23 "		1163	7	24 "	122 "	" "		451	20	15 "	13 "	8/21 "		1168	28	15 "	12 "						
						" "		1184	13	16 "	13 "	" "		453	16	36 "	65 "	" "		1184	30	16 "	33 "	8/28	05	450	30	26 min	57 min
						" "		481	14	24 "	18 "	" "		1162	18	21 "	29 "	" "		408	26	17 "	16 "	" "		366	29	43 "	27 "
						8/28 "		1173	10	86 "	70 "	8/30 "		1179	25	20 "	27 "	" "		460	26	68 "	30 "	" "		1161	28	29 "	22 "
						" "		355	13	26 "	30 "	" "		429	20	27 "	33 "	" "		359	26	17 "	27 "	8/30 "		1169	35	20 "	30 "
						8/30 "		365	12	23 "	13 "	Total		23475	506		863 "	" "		352	34	30 "	37 "	" "		1161	31	35 "	98 "
						" "		457	9	56 "	85 "							8/28 "		1173	27	17 "	35 "	Total	32	960	830 "	936 "
						" "		1176	10	40 "	165 "							" "		1167	27	12 "	26 "						
						Total		26	291	822	1197 "							" "		1184	24	33 "	20 "						

Carried forward to next Column

Summary

Kind of Trains	No. of Trains	No. of Cars	Engine & Caboose Delay in Set	Engine & Caboose Delay in Brigston
5 Cars or Less	3	6	74	156
6 to 15 Cars	26	291	822	1197
16 to 25 Cars	506	23475	863	1169
26 to 35 Cars or over	32	960	830	936
Total	567	24732	2589	3458

Consumption per train

	No. of Trains	Coal	Coke	Coal	Coke
East	547	23475	2-3	42.9	4.3
West	20	1257	1-3	62.8	3.1
Total	567	24732		43.6	4.2

Statement showing the number and size of stock trains passing from Chicago Great Western Railway at Union Stock Yards, Chicago, during the Mondays and Wednesdays of August, 1905. and time consumed in hauling same over terminal tracks to and from unloading Chutes as shown by train sheets of Chicago Junction Railway:

Chicago Grt. Western Ry.

Chicor. G. West Ry.

Date	Trains of 5 Cars or less: No. Engine	No. Cars	Brighton to Set	Empty to Brighton	Trains of 6 to 15 Cars: Date	No. Engine	No. Cars	Brighton to Set	Empty to Brighton	Trains of 16 to 25 Cars: Date	No. Engine	No. Cars	Brighton to Set	Empty to Brighton	Trains of 26 to 35 Cars: Date	No. Engine	No. Cars	Brighton to Set	Empty to Brighton	Trains of 36 Cars & Over: Date	No. Engine	No. Cars	Brighton to Set	Empty to Brighton
8/2 1905	232	5	30 min	14 min	8/7 '05	269	14	13 min	17 min	8/2 05	239	16	20 min	68 min	8/2 05	259	32	15 min	10 min	8/21 05	274	37	20 min	9 min
" "	254	1	16 "	24 "	" "	232	9	19 "	13 "	8/9 "	277	16	24 "	29 "	8/7 "	239	26	56 "	11 "					
8/7 "	231	1	37 "	44 "	8/14 "	252	12	17 "	12 "	8/16 "	259	16	35 "	21 "	Total	2	58	71	21 "	Total	1	37	20 "	9 "
8/9 "	260	4	63 "	35 "	" "	281	14	31 "	19 "	8/23 "	274	22	13 "	26 "										
8/14 "	237	3	28 "	12 "	8/16 "	281	11	15 "	27 "	8/28 "	277	19	19 "	17 "										
8/16 "	234	3	10 "	14 "	8/21 "	260	13	20 "	14 "	" "	278	16	18 "	20 "										
" "	235	2	44 "	9 "	8/28 "	262	7	39 "	28 "	" "	287	19	26 "	45 "										
" "	254	2	15 "	16 "	8/30 "	278	13	58 "	48 "	8/30 "	255	25	26 "	22 "										
8/21 "	235	2	35 "	11 "	Total	8	93	212	178 "	Total	8	149	184 "	248										
" "	126	3	30 "	17 "																				
8/23 "	263	3	36 "	19 "																				
" "	237	2	19 "	18 "																				
8/28 "	263	5	13 "	30 "																				
8/30 "	269	4	12 "	44 "																				
" "	277	1	23 "	12 "																				
Total	15	41	411	429																				

Summary:

Size of Trains	No. of Trains	Cars in Each Train	Brighton to Set	Empty to Brighton	Average time per train: Out	Total
5 Cars & less	15	41	27 m	24 m	2 h 44 m	4 h 22 m
6 to 15 Cars	9	93	11 "	24 "	2 " 22 "	4 " 42 "
16 to 25 Cars	5	149	15 "	20 "	3 " 10 "	5 " 46 "
26 to 35 Cars	2	58	37 "	21 "	3 " 10 "	5 " 46 "
36 Cars or over	1	37	20 "	9 "	2 " 44 "	5 " 42 "
Total	34	378	117	344	264	524

Statement showing the number and size of Stock trains received from the Chicago, Rock Island & Pacific Railroad at Union Stock Yards, Chicago, during all the Mondays and Wednesdays of August, 1905 and time consumed in handling same over terminal tracks to and from unloading Chutes as shown by Train sheets of Chicago Junction Railway.

C.R.I.&P.Ry. C.R.I.&P.Ry. C.R.I.&P.Ry.

Trains of 5 Cars or less

Date	No. Engines	No. Cars	Mins. Cars to Set		Empty to Hold Track
8/7 05	145	5	9	min	5 min
" "	103	1	10	"	5 "
8/9 "	109	2	10	"	6 "
8/23 "	99	2	10	"	5 "
8/28 "	196	5	7	"	5 "
8/30 "	101	3	10	"	5 "
Total	6	18	56	"	31 "

Trains of 6 to 15 Cars

Date	No. Engines	No. Cars	Mins. Cars to Set		Empty to Hold Track
8/2 05	107	7	12	min	5 min
8/7 "	118	10	7	"	4 "
" "	109	10	30	"	35 "
8/9 "	71	8	8	"	5 "
" "	195	15	9	"	6 "
8/14 "	148	13	30	"	10 "
" "	98	9	7	"	6 "
" "	103	11	11	"	5 "
8/16 "	195	14	15	"	5 "
" "	148	10	14	"	15 "
8/21 "	195	11	8	"	4 "
8/30 "	196	15	60	"	7 "
Total	12	133	211	"	107 "

Trains of 16 to 25 Cars

Date	No. Engines	No. Cars	Mins. Cars to Set		Empty to Hold Track
8/2 05	118	24	10	min	5 min
" "	146	21	24	"	5 "
8/7 05	146	16	10	"	6 "
" "	107	25	30	"	4 "
" "	71	25	20	"	4 "
8/9 "	118	18	15	"	35 "
" "	118	17	10	"	5 "
8/14 "	104	21	8	"	5 "
" "	102	25	13	"	5 "
" "	196	25	12	"	4 "
8/16 "	147	25	16	"	4 "
" "	196	22	22	"	5 "
8/21 "	118	20	11	"	5 "
" "	144	24	7	"	5 "
" "	118	22	12	"	4 "
8/23 "	118	16	7	"	5 "
8/28 "	118	25	9	"	4 "
" "	196	25	25	"	5 "
" "	146	25	19	"	5 "
" "	195	22	7	"	4 "
8/30 "	98	17	10	"	5 "
Total	21	460	297	"	129 "

Trains of 26 to 35 Cars

Date	No. Engines	No. Cars	Mins. Cars to Set		Empty to Hold Track
8/2 05	195	35	11	min	5 min
8/7 "	195	32	19	"	7 "
8/14 "	147	28	10	"	7 "
8/21 "	196	30	10	"	7 "
8/28 "	110	26	35	"	5 "
8/30 "	195	33	17	"	5 "
Total	6	184	102	"	36 "

Trains of 36 Cars & Over

Date	No. Engines	No. Cars	Mins. Cars to Set		Empty to Hold Track
8/2 05	144	44	50	min	6 min
8/7 "	126	43	50	"	5 "
" "	196	36	53	"	9 "
8/9 "	196	41	16	"	12 "
" "	146	36	10	"	10 "
8/14 "	118	39	9	"	6 "
" "	195	40	11	"	4 "
8/16 "	108	44	9	"	6 "
" "	146	45	32	"	9 "
8/23 "	146	47	18	"	7 "
8/28 "	144	42	45	"	8 "
8/30 "	146	45	50	"	10 "
Total	12	502	353	"	92 "

Summary.

Size of Trains	Total	Date 8/2	Date 8/7	Date 8/9	Date 8/14	Date 8/16	Date 8/21	Date 8/23	Date 8/28	Date 8/30
5 Cars or less	6									
6 to 15 Cars	12									
16 to 25 Cars	21									
26 to 35 Cars	6									
36 Cars or over	12									
Total	57									
Engines	57	8	8	8	8	8	8	8	8	8
Cars	1171	195	195	196	196	195	196	146	144	146
Mins. Cars to Set	1171	502	424	344	133	184	140	47	42	31
Empty to Hold Track	427	92	92	92	18	92	92	17	17	17
Mins. Engine Time	1478	144	126	196	118	108	146	146	144	146
Mins. Engine Time	1478	144	126	196	118	108	146	146	144	146
Mins. Engine Time	1478	144	126	196	118	108	146	146	144	146
Mins. Engine Time	1478	144	126	196	118	108	146	146	144	146
Mins. Engine Time	1478	144	126	196	118	108	146	146	144	146

1717

Statement showing the number and size of Stock Trains received from Illinois Central Railway at Union Stock Yards, Chicago, during half of Mondays and Wednesdays of August, 1905, and the time consumed in hauling same over terminal tracks to and from unloading chutes as shown by train sheets of Chicago Junction Railway.

Ill. Cent. Ry

2376 Ill. Cent. Ry

Trains of 5 Cars or Less

Date	No. Trains	No. Cars	Time Consumed in Transit to Yards	Time Consumed in Transit to Bridgeton

Trains of 6 to 15 Cars

Date	Hrs Engine Cars	No. Cars	Time Consumed at Yards to Set	Time Consumed in Transit to Bridgeton
8/9 05	669 9	27	min 29	min
8/16 "	737 10	22	" 12	"
8/23 "	669 13	15	" 13	"
Total	3 32	64	" 54	"

Trains of 16 to 25 Cars

Date	Hrs Engine Cars	No. Cars	Time Consumed at Yards to Set	Time Consumed in Transit to Bridgeton
8/2 05	775 16		18 min	70 min
8/14 "	737 21		25 "	10 "
" "	669 19		26 "	9 "
8/21 "	737 23		19 "	17 "
" "	668 23		19 "	17 "
8/28 "	737 17		20 "	12 "
Total	6 119	127		135 "

Trains of 26 to 35 Cars

Date	Hrs Engine Cars	No. Cars	Time Consumed at Yards to Set	Time Consumed in Transit to Bridgeton
8/2 05	669 32		65 min	29 min
8/7 05	41 31		27 "	12 "
" "	737 32		80 "	10 "
8/14 "	669 27		22 "	12 "
8/16 "	669 34		40 "	26 "
8/28 "	669 29		50 "	11 "
8/30 "	669 30		53 "	9 "
Total	7 215	337	"	109 "

Trains of 36 Cars & Over

Date	Hrs Engine Cars	No. Cars	Time Consumed at Yards to Set	Time Consumed in Transit to Bridgeton
8/7 05	757 36		76 min	10 min
8/9 "	737 36		23 "	23 "
8/21 "	669 39		20 "	20 "
Total	3 111	119	"	53 "

Summary

Kind of Trains	No. of Trains	Cars No. of Cars Each Train	Hrs No. of Hrs Each Train	Average Time of Trains at Yards	Cent Total
5 cars & less	—	—	—	—	—
6 to 15 Cars	9	37	3 32	21	39
16 to 25 Cars	6	119	6 119	1 48	36
26 to 35 Cars	7	215	7 215	1 39	63
36 Cars or over	3	111	3 111	1 17	53
Total	19	477	19 302	3 45	191

1748

2572 were to furnish, in addition to the statements filed, supplemental statements showing the comparisons, certain comparisons which you either suggested or which were requested of you, I don't recollect. Have you made the statements?

A. Yes.

Q. Will you please state briefly what it shows and file it?

A. After the deduction shown in the statement filed last Friday, covering the cost and earnings of cattle and fresh meat, hogs and packing-house products respectively, the remaining freight train earnings per mile on cattle were $2.05, on hogs $1.49.6, fresh meats $1.35 and on packing-house products, $1.61.

Assuming that three trains of cattle are hauled for every two trains of hogs, and that two trains of fresh meat are hauled for each train of packing-house products, the average train mile earnings would be on that basis on cattle and hogs, $1.82.8 and on fresh meat and packing-house product $1.43.6. Converting these earnings into percentages the results are that, based on the cost shown in that statement, that the rate on the product should be 27.2 cents higher than the rate on live stock, or stated conversely, that the rate on the live stock should be 21 per cent. less than the rate on the product.

Mr. DAWES: You said 27.2 cents. Did you mean that?

A. 27.2 per cent.

2573 Mr. DAWES: Then it should not be 75%?

A. That is on the basis of the cost. Another statement, viewing it in a slightly different aspect, on the basis of a rate of 20 cents, train tonnage 800 gross tons, using the results shown in the exhibits filed Friday, the product moving 500 miles and the live stock moving 400 miles, the gross train earnings per mile, according to the statements filed on Friday were; on cattle, $3.33; on hogs, $2.72; on fresh meat, $2.20 and on packing-house product, $2.39. Assuming that the same number of trains of each were handled, the average would be, for cattle and hogs, $3.02 and for fresh meat and packing-house products $2.29. Converting these receipts into percentages, it results in the conclusion that the rate on the product should be 32% higher than on live stock or that the rate on the live stock should be 24.2% less than on the product.

Mr. COWAN: File that as a part of your testimony and give the number of the exhibit.

(The statement so filed is marked "Tomlinson's Exhibit 54.")

Q. During the giving of your testimony on Friday, you were giving certain reasons why the rates on live stock in Iowa were too high. Have you prepared or have you any statement showing any comparison of facts explanatory of your reasons?

A. Yes, I have.

2573*a* On basis of the earnings per train mile after certain deduction as shown in Tomlinson's exhibits relative to cost and earnings on trains of live stock and its product, gross train tonnage of 800 tons, distance 500 miles, rate 20 cents.

Freight train earnings per mile:

Cattle.	Hogs.	F. M.	P. H. P.
2.05	1.596	$1.35	$1.61

Assuming that 3 trains of cattle are hauled for every 2 trains of hogs and that 2 trains of *r*ach meat are hauled for each train of P. H. P., the average train mile would be:

On cattle and hogs..... $1.828
On F. M. and P. H. P..... $1.436

Converting these earnings into percentages the results are:

That the rate on the product should be 27.2% higher than rate on live stock,

Or

That the rate on live stock should be 21% less than rate on the product.

Tomlinson *54*.

2573*b* TOMLINSON (55).

Statement of average Revenue per ton per mile, average Freight Earnings per train mile, average distance each ton of freight was handled, and the average number of tons of revenue freight carried per train mile; compared with the actual revenue per ton per mile and the actual train earnings per train mile on shipments of Cattle and Hogs on the same revenue tonnage and moving substantially the same distance at the actual rate in effect to Chicago. In this comparison the station used is Elwood, Iowa, on the C. M. & St. P. Ry., distance from Chicago 180 miles, and the actual rate on Cattle 16 cents and on Hogs 17 cents; average figures for the C. M. & St. P. Ry. are taken from the annual report of that Company for the year ending June 30, 1905, page 35.

	C., M. & St. P. statistics.	Actual results from shipments of Cattle.	Hogs.
Average distance each ton of revenue freight was carried, in miles	175.14	180	180
Average number of tons of revenue freight per freight train mile	264.62	264.62	264.62
Average revenue per ton per mile, in cents	.8813	1.77	1.88
Average revenue per freight train mile	$2.332	$4.70	$4.99

The 264.62 tons of revenue freight shown as an average is equivalent on a loading of 22,000 lbs. of cattle per car to 24 cars of cattle per train, and on a loading of 17,000 lbs. of hogs per car would be equivalent to 31 cars of hogs per train.

2573c Comparison of same statistics as applies to shipments of cattle and hogs to Chicago, Ill., from Dawson, Iowa, distance 371 miles, rate on cattle 23½ cents, hogs 23½ cents per 100 lbs.

	C., M. & St. P. statistics.	Actual results from shipments of Cattle.	Hogs.
Average distance each ton of revenue freight was carried, in miles	175.14	371	371
Average number of tons of revenue freight per freight train mile	264.62	264.62	264.62
Average revenue per ton per mile, in cents	.8813	1.267	1.267
Average revenue per freight train mile	$2.332	$3.352	$3.352

2574 Q. Introduce it in evidence with as brief an explanation as possible.

A. This is a statement of the average revenue per ton per mile, average freight earnings per train mile, average distance each ton of freight was handled and the average number of tons of revenue freight carried per train mile.

Mr. DAWES: On what road?

A. I am coming to that in a minute. (Continuing answer)—compared with the actual revenue per ton per mile and the actual earnings per train mile on shipments of cattle and hogs, on the same revenue tonnage moving substantially the same distance at the actual rate in effect to Chicago.

In this comparison, the station used is Elwood, on the C. M. & St. P., the distance from Chicago is 180 miles, the actual rate on cattle 16 cents and on hogs, 17 cents. Compared with the average figures for the C. M. & St. P., taken from the annual report of that company for the year ending June 30th, 1905, at page 35.

According to the C. M. & St. P. annual report, the average distance each ton of revenue freight was carried in miles was 175.14. The point from which the comparison is made is 180 miles from Chicago, which is the closest approximation to 175.14 that I could make.

2575 According to the C. M. & St. P. Annual report, the average number of revenue freight tons per freight train mile was 264.62.

In making the comparison I have used the average live stock train carrying that amount of revenue freight. The results are that

the average revenue per ton per mile for the average of all freight on the C. M. & St. P. is eight mills and eight tenths. The actual result of the 16 cent rate on cattle is 1.77 cents; on hogs, one and eighty eight hundredths of a cent, more than double the average. On the same basis, the average revenue per through train mile on the C. M. & St. P. is 2.33. The actual results on the basis which I have indicated and which is shown in this statement would be, on cattle, $4.70 and on hogs, $4.99. The 264.62 tons of revenue freight shown as the average is equivalent, on a loading of 22,000 pounds of cattle per car, to 24 cars of cattle per train and on a loading of 17,000 pounds of hogs it would be equivalent to 31 cars of hogs per train. On the same basis I have compared the rate on cattle from Dawson, Iowa, also a station on the St. Paul Railway, 371 miles from Chicago. The rate on cattle to Chicago is 23½ cents and on hogs, 23½ cents, and the results are that the average revenue per ton per mile on the cattle would be 1.26 cents and on hogs eight tenths of a cent for the average St. Paul earnings per ton per mile. The average
2576 revenue per freight train mile on the cattle from Dawson, Iowa, would be $3.35 and on hogs, the same, whereas, the average revenue per freight train mile covering all freight on the C. M. & St. P. Railway is $2.33 per freight train mile.

Mr. DAWES: Why did you happen to take the St. Paul road?

A. Because the St. Paul Railway published more elaborate statistics regarding their operation than any other company involved in this suit and because I previously submitted some figures showing that the St. Paul Railway correctly represented an average of the statistics of operating as published for Group Six in the Interstate Commerce Statistical Reports.

Q. When did you testify to that?

A. On last Friday, and I filed statements and exhibits showing that fact.

Mr. COWAN:

Q. Some of the witnesses for the defendants have submitted statements showing the earnings per car on various commodities, together with other statistical information, that is, commodities other than live stock. I will ask you to state whether you have examined those statements and whether or not they correctly reflect the actual movement of the traffic and the actual earnings on shipments
2577 of those commodities?

A. They do not correctly represent the actual movement or the actual earnings.

Q. Explain why you say that, and, in that connection, what those statements are to which you refer?

A. I refer, for example, to a statement filed by Mr. W. E. Keepers, showing the average loading of grain, or showing at least the loading of wheat from Omaha to Chicago to be 70,000 pounds, and the rate to be 17 cents and total earnings as one hundred nineteen per car mile. The rate is 12 cents and I doubt whether there was any grain ever moved on 17 cents.

Mr. DAWES: That is a proportional rate, isn't it?

A. Yes.

Q. It is not a local rate?
A. There is no local grain originates at Omaha.
Q. And there is not any local cattle originates there, either, is there?

Mr. COWAN: I think if counsel would wait till the witness gets through and then cross-examines, it would be better.
Mr. LYNDE: He makes so many statements that it would take a month to cross-examine if we waited till he got through.
Mr. COWAN: All right, I will withdraw my statement.

The COURT: Go ahead.
The WITNESS: A statement filed, I believe, by Mr. Calkins,
2578 shows the average loading per car of 66,000 pounds on a number of commodities except live stock. According to the annual report of the C. M. & St. P. Railway the average loading per car is something over 13 tons and therefore, if their heavy commodities load 33 tons on the basis shown in his exhibit, it is quite patent that either the annual report is wrong or the figure is misleading.
Mr. DAWES: Why?
A. Because the tonnage of the heavy commodities which are used as a basis for comparison, represents so large a proportion of the total tonnage of the C. M. & St. P. Railway that to apply that mathematically there must be a lot of cars moving without any loads, if the heavy commodities loading 66,000 pounds if they load that, as shown by this exhibit.
Q. Have you got the figures showing the proportion of heavy loads on the St. Paul to their whole traffic?
A. The annual report shows that, yes sir.
Q. Does that exhibit the-e show it?
A. I have not attempted to do it, it is in evidence in the St. Paul exhibit, yes sir.

Mr. DAWES: Your Honor, it seems to me that he is not testifying to anything he knows, but it is an argument based on the testimony.
The COURT: Let it go in. That is the best way and then
2579 you can argue about it later.

Mr. COWAN:

Q. As a matter of fact, Mr. Tomlinson, have you investigated and do you know whether grain ever moves from Omaha on the 17 cent rate, and if not, on what rate does it move?
A. It never moves on the 17 cent rate, it moves on the balance of the rate or the proportional rate.
Mr. COWAN: File your explanatory statement as another exhibit and give the number.
A. This is a copy of exhibits, I have no statement to file in this connection.
Mr. DAWES: You don't file any statement or exhibit in connection with the statement you made a moment ago about the loading on the St. Paul road?
A. No sir.
Mr. DAWES: Then I move to strike that out.

The COURT: He says the figures are in evidence.
Mr. COWAN: They are in the annual reports.
The COURT: He is an expert.
Mr. DAWES: I was not making the objection on that ground but I thought he had some statements there.
The COURT: So did I.
The WITNESS: This is for my own information, that is all.

Mr. COWAN:

2580 Q. Have you any statement showing the density of traffic and comparative train loading for the various lines of railway, defendants in this case, for a series of years? If so, file it as an exhibit to your testimony giving the number of the exhibit and such explanation as is necessary.
The COURT: Suppose you leave off that last part, let him file it and you can argue about it when you come to it.
Mr. COWAN: Well just file it.
Mr. DAWES: State what it is.
A. It is a table showing the volume and density of the traffic, the comparative car loading, the train loading, tons per loaded car mile, per train mile, etc., for the Atchison, Topeka & Santa Fe, the Chicago & Alton, the Chicago North-Western, The Chicago, Burlington & Quincy Railroad, the Chicago Great Western Railway and the Chicago Milwaukee & St. Paul for the years 1892, 1898, 1903 and 1904.

Mr. DAWES:

Q. Where were the statistics taken from?
A. From reports made to the Interstate Commerce Commission.

Mr. COWAN:

Q. At the hearing on Friday you stated approximately the amount of the receipts of live stock from points east of the

(Here follows fac-simile marked p. 2580*a*.)

2580a (1)

Table showing the volume and density of traffic, corporation car loading, train loading, tons per loaded car mile, per train mile, passenger car and train mileage for mile of road, for the years 1892, 1898, 1903 & 1904 — Ending June 30.

Name of road	year	Mileage Operated	Tons Carried	Tons Carried 1 mile	Tons 1 mile per mile of road	Tons per train mile	Tons per loaded car mile	Average distance haul of 1 ton	Loaded cars per train mile	Empty cars per train mile	Per Cent of empty to total car mileage	Passenger car miles per mile of road	Passenger car miles per mile of road	(Direction of Traffic) Mileage of loaded freight Northern East	Southern West	Revenue per ton per mile	Freight Earnings per train mile	Passenger Earnings per train mile
Atchison, Topeka & Santa Fe Ry	1892 ✓	4.587.12 ✓	6.224.294	1.090.948.391	369.032	180	11	272	14	6	27.57		1.346	87870276	80955790	1.130	152.446	98855
	1898	4.564.73	6.889.657	1.958.306.289	430.644	153	11	284	14	6	29.51		1.336	89443420	87953751	964	147669	104652
	1903	4.871.34	9.953.407	2.991.438.944	615.827	762	14	301	19	8	28.88	10.021	1.857	100587360	117033153	901	236197	176624
	1904	5.030.74	9.513.801	2.931.269.565	582.716	719	14	308	18	8	29.41	10.257	1.843	103460202	110337188	981	245164	138376
Chicago & Alton Ry.	1892 ✓	843.40	3.548.052	562.183.354	666.568	157	17	158	13	7	35.53		2.527	20781940	17705832	973	147796	131457
	1898 ✓	843.54	2.996.498	643.443.867	644.242	175	17	181	14	8	36.92		2.830	28277925	15024071	866	151455	107441
	1903	915.41	5.877.995	1.102.792.462	1.204.698	361	19	188	19	9	33.27	15.735	3.140	36488324	21580080	599	216128	118888
	1904	915.23	6.121.333	1.099.971.284	1.201.834	339	18	180	19	10	35.00	15.943	3.141	36986178	23467200	677	229268	136247
Chicago & Northwestern Ry.	1892	4.273.14	15.768.548	2.301.831.804	538.624	142	10	146	14	6	28.81		1.878	97289090	123863445	1.013	145341	107397
	1898	5.085.62	19.971.686	3.036.202.061	597.184	190	12	152	16	6	28.64		2.074	124863282	127431979	894	172858	87888
	1903	7.365.63	30.498.440	4.047.188.810	636.118	250	14	133	17	7	29.60	11.108	2.395	136468544	144081580	889	227686	93998
	1904	7.411.77	28.128.810	4.066.140.832	549.184	245	14	145	17	7	29.69	10.122	2.158	134693185	145908634	917	224915	99038
Chicago, Burlington & Quincy Rlt	1892	5.440.74	12.418.634	2.173.005.644	399.395	150	10	175	15	5	25.46		1.461	2219435831		987	148276	117027
	1898	5.859.70	13.678.221	2.392.918.394	408.369	164	10	175	16	6	28.37		1.308	2398137149		934	160990	108271
	1903	8.306.75	19.716.127	4.873.589.691	586.822	271	15	264	18	7	27.03	8.859	1.779	3299252230		864	234746	118992
	1904	8.322.16	19.779.915	5.101.521.088	612.975	284	15	258	18	7	28.14	8.694	1.734	3298488909		858	244145	125539
Chicago Great Western Ry. ✓	1892 ✓																	
	1898	932.01	1.814.750 ✓	✓	✓	532 ✓	— ✓	—	17	4	19.28		2.179	218584230	197641174	✓	167528	62281
	1903	932.01	2.768.307	759.916.612	817.545	275	14	275	19	6	23.84	11.970	2.633	277013066	250191064	741	204301	81003
	1904	818.73	2.625.601	805.221.416	922.171	271	15	265	18	6	24.80	13.530	2.861	301795648	246158958	722	195376	81092
Chicago, Milwaukee & St. Paul Ry.	1892	5.159.09	11.568.930	2.265.993.968	393.464	153	10	196	15	5	26.91		1.374	184519274	101513481	1.026	157882	115141
	1898	6.191.00	14.230.144	2.621.348.371	423.413	178	11	184	16	7	29.21		1.327	1354768744	1041339774	972	173545	102995
	1903	6.837.97	21.304.638	4.021.735.418	591.703	240	13	189	18	7	28.85	8.584	1.660	1571391573	1461354375	865	208339	112106
	1904	7.130.61	21.267.370	3.938.402.552	561.676	237	13	185	18	8	29.61	8.846	1.707	1351002430	1421179386	891	211673	108690

✓ From report of Atchison, Topeka and Santa Fe R.R.
✓ From report of Chicago and Alton R.R.
✓ Estimated.
✓ Cannot furnish.

2581 Missouri river, at Missouri river markets. Have you made any calculations showing what percentage of the total receipts those shipments represent, and if so, state what it was, and if you have a statement in that connection, file it.

A. During the year 1904, there was received at Kansas City, St. Joe and South Omaha, from points east of the Missouri river, 1,864,895 head of hogs, representing 30% of the total receipts.

Mr. RANSOM: A little bit louder.

A. Representing 30% of the total receipts of hogs at those markets. Sioux City is not included. During the same year there was received 533,863 head of cattle and calves, which represents 14.5 per cent of the total receipts at that market.

Mr. COWAN:

Q. That is those were received from east of the river.

A. Yes. During 1901 the percentage of the receipts east of the Missouri river, compared to the total receipts, were on cattle 19.1 per cent. and on hogs, 28.5 per cent.

Mr. COWAN: File that, Mr. Tomlinson.

The WITNESS: There is nothing to be filed, it is just the figures.

Q. You also testified regarding the receipt of live stock at Chicago from eastern lines and you were questioned particularly what
2582 the percentage was. Have you ascertained the figures showing the actual amount received at Chicago from points east thereof?

A. I stated, I believe that the receipts of live stock from points east of Chicago aggregated around,—somewhere around 2% or between two and three per cent.

I have since compiled a statement of the receipts of live stock at Chicago from eastern points, arriving here over the B. & O., the Chicago & Erie, the Grand Trunk Western, the Lake Shore & Michigan Southern, the Michigan Central, the N. Y. C. & St. L., the Pierre Marquette the Pan Handle & Fort Wayne Companies and a number of cars was 4,789 which represents 1.6 per cent. of the total receipts via cars at the Chicago market.

Q. What is the natural movement of live stock product that is destined east for consumption, and give your reasons for such statement as you may make?

A. You mean the natural movement of live stock?

Q. What is the natural movement of live stock, the product of which is destined east for consumption, the movement of live stock the product of which is destined east?

A. The natural movement of live stock, where the product is destined east for consumption would be eastwardly, unless, by reason of the condensation of the product there might be less units of
2583 service performed by it moving westwardly and thence eastwardly.

If the units of service on the live stock westwardly added to the units of service on the products moving eastwardly for consumption is greater than the units of service on the live stock from the point of

origin to the eastern market, then the movement west bound would be unnatural in my opinion.

Q. Explain by actual illustration what you mean by "units of service?"

A. I mean——

Q. Take some example and explain it?

A. Well, take a carload of cattle originating 100 miles east of the Missouri river. The gross tons moved a mile for the movement into Omaha would be 1100 tons. Assume that this car of cattle was slaughtered at the Missouri river and the product shipped eastwardly, the gross ton miles would be 7,700, a total of 8,800.—No, I want to correct that. The gross tons on the product moved eastwardly would be 3,850 instead of 7,700 and the total gross ton service would be 4,950 on the live stock westwardly and the product east. The total gross ton service on the live stock from the point of shipment eastwardly to, say Chicago, would be 4,400, a difference of 550 gross tons service or 12½%. According to this, there would be 12½% more units of service performed on the west bound movement of the live stock into the Missouri river and the product east than on
2584 shipping the live stock direct to an eastern market.

Q. Under what conditions would it be the natural movement to ship to the river markets?

2585 A. Where the shrink and the gross tons service would be less than on the shipment to Chicago, or Eastern markets.

Q. The industries at St. Paul, South Omaha, Sioux City and Cedar Rapids claim that the present adjustment of rates is fair as between the various markets, and that any change would result in a preference against them. From your knowledge and investigation of the situation, state whether or not you regard the present adjustment as fair?

A. No sir, I do not.

Q. Why?

A. Under the present adjustment the Chicago and Eastern markets are discriminated against; so also are the shippers of live stock located at intermediate points.

The COURT: Those located at intermediate points?

A. Yes sir.

Mr. COWAN:

Q. What is the difference between the train loading of live stock and other classes of freight, or the average of all freight, including live stock?

A. Very little difference.

Q. Are you able to state Mr. Tomlinson, the basis on which rates are made?

A. Well, rates on highly competitive traffic are made on the basis of about all the roads can get.

Mr. DAWES: Well, I object to that your Honor. It is cer-
2586 tainly a conclusion based upon nothing but surmise. He cannot tell what actuates the minds of the freight people on these different roads, except from the figures.

The COURT: You can cross examine on that. Go ahead. Tell

things that you can give a reason for when they come to cross examine you.

A. The rates on other traffic for example, that may be local to a line and which they desire to put into competition with other traffic on other lines are adjusted on about the basis of what the traffic will stand. Local and non-competitive traffic is charged what the roads think proper.

Mr. DAWES: Now, please right there, please tell me how you know that to be true with reference to the Chicago, Burlington & Quincy Railroad Company.

The COURT: Yes.

A. From my general knowledge of how rates are made.

Mr. DAWES:

Q. Well, who made the rates in existence on the Chicago, Burlington & Quincy Railroad in their department—on their road?

A. I cannot say.

Q. So what was actuating him, or what prompted his mind to institute any particular rate, you don't know?

A. The factors which I have enumerated.

Q. You don't know who he was in the first place?

2587 A. No, sir.

Q. Now, you are going to tell what prompted his mind.

A. My opinion about it, yes sir.

Q. I want to know what facts you know about it?

A. The facts I have enumerated.

Q. That is, you know no facts whatever, do you, except from the rates themselves, which lead you to think that the principle you have testified to prevailed in the making of the rates you speak of?

A. That is substantially my conclusion on the basis of the rates themselves and from my general knowledge of the basis on which they are made, not as applied to any particular road or any particular class of traffic.

The COURT:

Q. What makes you think they make them that way?

A. Simply from my general knowledge obtained through conversation with numerous traffic men; my general knowledge as to what the traffic pays and what the railroads claim they wish to have it pay, what they would like to charge on it.

Mr. DAWES:

Q. And you undertake on that basis to testify that the rates made by these defendants are made upon the lines and in the method that you have described, do you?

A. Yes sir.

Q. And swear to it?

A. Yes sir.

Q. All right.

2588 Mr. COWAN:

Q. Mr. Tomlinson, I understood you to say that the rates from highly competitive points were made on what the roads could get?

A. Yes sir.

Q. Do you mean by that, what they can get and yet participate in the business?

A. What they can get, and——

Mr. DAWES: I object now your Honor.

The COURT: I will sustain the objection, and also as to the last question, I am inclined to strike that all out. Let the record show that is all stricken out.

Mr. COWAN:

Q. Mr. Tomlinson, have you read the books on the subject of railroad operation?

Mr. LYNDE: What is that?

Mr. COWAN: I ask him if he has read the books that are extant on the subject of railroad operation, and if he has read the testimony that has been taken before the various investigations of Congress given by railroad men throughout the United States.

A. Yes sir.

Q. There seems to be some doubt cast upon the means of your information.

Mr. DAWES: Oh, no.

Mr. COWAN:

2589 Q. I will ask you how extensively it has been asserted in these cases that you have read that competitive rates are made on compromise and by competition.

Mr. DAWES: I object to that.

The COURT: The objection is sustained because there is no dispute about it in this case, as I understand; that is one reason, and for the reason that it is hearsay.

Mr. DAWES: We admit this is a qualified witness and that is all that would go to.

Mr. COWAN:

Q. Do you know whether the published rates from the St. Paul territory before the reduction, complied with the Interstate Commerce decision in what is known as the Board of Trade case?

Mr. DAWES: I object to that.

The COURT: The objection is sustained.

Mr. COWAN:

Q. What in your opinion would be a resonable rate on live stock from the zone of territory east of the Missouri River which now takes the 23½ cent rate?

Mr. DAWES: I object; he has gone over that.

The COURT: Hasn't he gone over that?

Mr. COWAN: He has not given what he thought the reasonable rate would be.

The COURT: Well answer the question.

A. Twenty cents on cattle and hofs.

2590 Mr. COWAN:

Q. And the same question with regard to St. Paul?

A. Eighteen cents.

The COURT: That is you think, cattle and hogs and fresh meat ought to be alike?

A. No; I think the rate on live stock ought to be less than on the product.

Q. If live stock is 20 cents, what do you put the product including fresh meat?

A. If I were suggesting ideal conditions, I would put the rate on fresh meat at 150 per cent. of the rate on live stock, and the rate on packing house product say, 115 per cent. of the rate on live stock; that is on the basis of the cost of service alone.

Q. That is the cost of service to the railroad?

A. Yes, sir. It costs them that much more to handle the product than it does the live stock.

Mr. DAWES: Are you taking other things into consideration when you say the rate ought to be 115 per cent.?

A. Nothing except cost of service and allowing to each class of product its fair proportion of the fixed charges.

Q. That is your conclusion of the whole matter then, that it ought to be 20 cents from the Missouri River on live stock, and 15 per cent. greater on packing house products, what would that make it, 23½ cents on packing house products, would it?

2591 A. No; my conclusion is that the rates from the zone of territory about which Mr. Cowan interrogated me, should be 20 cents on live stock.

Q. Yes.

A. And I stated in response to a question of his Honor, that the rate on the product ought to be—on fresh meat, ought to be 150 per cent. thereof.

Q. 150?

A. Yes, sir.

Q. Pardon me, I thought you said 115.

A. And the rate compared with that on packing house product, ought to be 115.

Q. So the rate on dressed meat would be 30 cents, according to you?

A. Yes sir.

Q. And on packing house product, 23 cents?

A. Yes sir, that is right.

Q. Then suppose you were called upon to carry out the order of the Commission that these rates should be equal, where would you put them?

A. Without considering any considerations as to the contracts in effect?

Q. Yes. Where would you put them?

A. If I was asked to adjust those rates, I would put them on that basis.

Q. But you have sued here, your Company has sued here, to compel these railroad companies to make these rates alike, that is to conform to the order of the Interstate Commerce Commission
2592 which says they shall be alike. Now, where would you put them, how would you conform them to that and do justice to the railroads?

A. I represent no company whatever.

Q. I did not mean to insert that. I don't think you will deny being the prime mover in this case.

(The pending question was then read.)

Mr. DAWES: How would you put them, to do justice to the railroad companies?

A. If I was called upon to carry out the order of the Commission, I would necessarily have to make them alike.

Q. Where would you put them?

The COURT: At 20 cents or 23½ cents?

Mr. SHAVER: The order of the Commission requires that the rates shall not be higher on live stock than on the product, not that they shall be the same.

Mr. DAWES: If one is not higher than the other, the general result would be that they would be alike.

Mr. SHAVER: One might be lower under the order of the Commission. The product might be higher than the live stock under the order of the Commission.

The COURT: Have you answered the question?

A. I think I have answered all I care to.

Mr. BAXTER: I don't understand the witness to have answered the question.

2593 (Previous answer read as follows: "If I was called upon to carry out the order of the Commission, I would necessarily have to make them alike.")

Mr. DAWES:

Q. Where would you put them?

A. Not necessarily alike.

Q. Assume that the Commission's order requires them to be alike, we won't argue that question, where would you put them and do justice to the railroad companies?

A. At the present figures, 18½ and 20 cents.

Q. You have just testified that the railroad is entitled to 20 cents on cattle.

A. That is from intermediate territory in Iowa.

Q. You say that this rate which we are now discussing ought to be 20 cents?

A. That is the rate from the zone of territory east of the Missouri River, yes sir.

Q. Well, that is what we are talking about?

A. Yes sir.

Q. Now, if you say you reduce it down to 18 cents or 18½ cents, you do wrong to the railroads by a cent and a half, don't you, according to your conclusions?

A. The 18½ cent rate——

Q. Now, answer that please.

A. The 18½ cent proportional rate from the Missouri River, applying on the product destined east of the Indiana-Illinois State line——

2594 Q. Now, treat my inquiry fairly.

A. Your question is not fair Mr. Dawes.

Q. I am assuming now that under your petition, the petition in this case, the bill in this case, his Honor is required to either confirm or deny the order of the Commission making these rates alike. I am assuming that, I may be wrong, but assuming they have got to be alike—you say if you were to carry that out, you would put them at just where they are now—what is it—you would put the cattle rate down to 18½ cents where it is now, that is what you said, didn't you?

A. Well——

Q. Well, state it any way you want to.

A. Let me state, the proportional rate from the Missouri River markets and St. Paul——

Q. Please answer the question and then explain about it. I am not talking about movement of stock, anything about that.

A. I would put the rate on live stock from intermediate stations out in Iowa, not to exceed 20 cents.

Q. Yes.

A. Now, can I make a further explanation?

Q. Why, centainly Mr. Tomlinson.

A. The present proportional rate on fresh meat and packing house products from the Missouri River destined to Eastern points, is 18½ cents. That is also applied on Live Stock. Twenty cents is the local rate, that is also applied on live stock when origi-

2595 nating on Western lines. My answer comprehended the intermediate territory where I say a 20-cent rate would be reasonable.

Q. Well, it is reasonable from intermediate territory——

Mr. COWAN: Let him make the explanation. He asked to be permitted to make it, let him go along.

Mr. DAWES: Excuse me Mr. Tomlinson, I didn't mean to interrupt you.

A. From the St. Paul territory, the rate on fresh meat and packing house product is 17 cents to Chicago.

Q. Pardon me, won't you confine yourself to the Missouri River, one illustrates as well as the other.

A. One will not illustrate as well as the other.

The COURT: Haven't you stated enough. You have said how you would do it. Make this matter short. You men want to argue pretty soon.

Mr. DAWES: Having put the live stock rate at 20 cents as you

say, from the Missouri River intermediate points, where would you put the packing house product, 20 cents?

A. Yes sir.

Q. Then you would do wrong on dressed beef by 10 cents to the railroad companies, wouldn't you, and by 3 cents on packing house products?

Mr. COWAN: I don't think that is a fair question. He assumes in the first place, that the Commission has ordered these rates to be made the same.

2596 Mr. DAWES: I am assuming that.

Mr. COWAN: Then he asks if Mr. Tomlinson were going to do it, how he would do it, if he did that sort of thing, and then he turns around and says, "You would be doing a wrong to the railroad company," having already laid down the premises that the rate should be the same.

Mr. DAWES: Is that unfair?

Mr. COWAN: Yes; in my judgment, entirely so.

The COURT: Well, go on.

The WITNESS: I wish to say in explanation, in addition to that that the St. Paul rates and interior Iowa point rates are entirely different so far as the relative adjustment of rates is concerned between live stock and packing house product. That should be taken in addition to my answer.

Mr. DAWES: What has that got to do with it?

The COURT: You and Mr. Cowan can argue this later. What else?

Mr. COWAN:

Q. What is the rate on lumber paid per ton mile, or per car mile from Texas points to Chicago?

Mr. DAWES: I object.

Mr. COWAN: Now, they have introduced in evidence a number of statements here that show the comparative earnings on lumber, but they have introduced it in places where lumber does not move in any considerable amount.

2597 The COURT: You can tell me that when you come to argue it as well as this man. The objection is sustained. And these other gentlemen won't deny it if you have an open fact.

Mr. COWAN: My argumentative statement would not be evidence.

Mr. LYNDE: That is what we object to Mr. Tomlinson's statement because it is argumentative.

The COURT: I think you better end up this controversy.

Mr. DAWES: You have got everything in the world in there, now leave that out.

Mr. COWAN: It isn't in.

The COURT: You say it is true, and they don't deny it, so we will assume it is true. Go on with something else.

Mr. COWAN:

Q. Do you know what proportion of the total value of the live stock product is exported?

A. About 20 per cent.

Q. Have you investigated the matter so as to determine what the expense is of the terminal service of the various railroads in delivering live stock at the Union Stock Yards in Chicago?

A. Yes sir.

Q. What is that expense stated on the average, of the various roads?

A. About $2.30 on live stock per car.

Q. That includes the trackage and what else?

A. It includes everything—includes service into the yards
2598 trackage, cleaning cars, unloading and every incidental expense—station service—it is according to the statements filed by the railroads, sworn to.

Q. Have you estimated what is the weight of bedding and manure in live stock cars?

A. Yes sir.

The COURT:

Q. Where were those statements filed, in this case or before the Interstate Commerce Commission?

A. Before the Interstate Commerce Commission.

Mr. LYNDE: In another case. He testified about this the other day, I think he had it all here, the statements and your Honor ruled it out.

Mr. COWAN: I had it here and offered to introduce it and it was excluded. Now I ask him if he has made an investigation himself to determine what the cost is. He testified to that, but that part of the statement where he says it is according to the sworn statements filed, I am willing that should be stricken out.

The COURT: That is already in, let it go for what it is worth.

Mr. COWAN:

Q. What are the actual distances on which traffic moves under the Iowa Schedule and the Illinois Schedule?

Mr. DAWES: I object.

The COURT: What is that?

2599 Mr. COWAN: What is the actual distance the traffic moves. They have got a schedule which runs up to 500 miles, but the actual movements the schedules are made for only cover a certain distance considerably less. I want to show that fact, because those schedules are filed and it is explanatory of the actual application of the schedule.

Mr. LYNDE: There is nothing to show that this witness knows anything about it.

The COURT: The record shows that he knows a good deal about railroad matters.

Mr. LYNDE: He does, but this is the actual movement of the

traffic in the State of Illinois. That is something that requires some knowledge besides a guess.

The COURT: Do you know?

A. Yes sir.

Q. How do you know?

A. The fact that the Illinois Central tariff publishes rates from Chicago clear down to the southern part of the State. That shows the actual distances that the Illinois Schedule rates are applied.

Mr. DAWES: That is not the question you are asked.

Mr. COWAN: I am asking the actual distance applied.

Mr. DAWES: Do you know the distance which the traffic moves.

A. The traffic moves from the Southern part of Illinois to Chicago, live stock on those rates; yes, sir.

Mr. COWAN:

Q. Now, what are the actual distances which live stock
2600 moves in the State of Iowa, on the Iowa Distance Schedule?

A. I can give no actual instance in that, my opinion would be——

Mr. DAWES: Well, I object, that is a fact, it is not a matter of opinion.

The COURT: The objection is sustained.

Mr. COWAN:

Q. What does it cost for cleaning cars, have you investigated that matter?

A. Slightly; yes sir.

Q. Well, do you know what it costs?

Mr. DAWES: I object your Honor, unless it appears that this witness has cleaned a car. The record is full of evidence on that. We can make up our minds on that just as well as he can, I should judge.

The COURT: Did you get your information from which you make this, on the statement of any one?

A. By general inquiry and seeing some men cleaning cars.

The COURT: Well, the objection is sustained.

Mr. COWAN:

Q. Will you file a statement showing what the term "fresh meat" includes, and what the term "packing house product" includes?

Mr. DAWES: I object to that because witnesses, expert beef men have testified to that very thing on this stand, his own witnesses.

2601 Mr. COWAN: Giving what applied to each?

Mr. DAWES: Yes.

Mr. COWAN: You are very much mistaken.

The COURT: I cannot understand the question.

The WITNESS: It is in evidence in the tariffs.

Mr. COWAN: The question is: To what does the term "fresh meat" apply, and to what does the term "packing house product"

EXHIBITS

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apply. Now, he says it is in the tariffs. I want a reference made to that.

The COURT: Go ahead then.

The WITNESS: It is shown in the tariffs on file.

Mr. COWAN:

Q. Mr. Tomlinson, these various statements that you have filed, schedules and one matter and another as exhibits, have they been correctly prepared from the data and memoranda at your command that you have spoken of from time to time?

A. Yes sir, to the best of my knowledge and belief.

Q. Have you a statement from the Interstate Commerce Commission showing the comparative cost of the repairs of freight cars, repairs and renewals of freight cars, repairs and renewals of locomotives of these railway defendants taken from their annual reports?

A. Yes sir, I have.

Q. Covering what period?

A. Covering the period from 1893 to 1904 inclusive.

2602 Q. Please file that as an exhibit to your testimony.

(The document produced by the witness was filed, marked, "Tomlinson Exhibit No. 58.")

Mr. COWAN: That is all, your Honor.

The WITNESS: Here is an exhibit showing the receipts of live stock at the Union Stock Yards, Chicago, Illinois, for the years 1900 to 1905, which I promised to file, and which I now do.

(The document here filed by the witness, was marked "Tomlinson Exhibit No. 59.")

Cross examination by Mr. BAXTER:

Q. Does that (Exhibit No. 59) show stock coming from Iowa?

A. Yes sir, it shows the number of cars.

Q. You speak of the average receipts per train mile on some road, did you arrive at that average by including the movement of empty cars?

A. I accepted the average shown in the annual reports of the railroad companies, or the Interstate Commerce Commission wherever I have used it.

Q. Well, the Interstate Commerce Commission report, in arriving at the receipts per train mile, includes movement of the empties on the whole system, doesn't it?

(Here follows fac-simile marked p. 2602*a*.)

2603 A. Yes sir, wherever empties move. It includes the movements of trains both ways, loaded or empty.

Q. You spoke of an adjustment of rates, or rather as to how rates were adjusted in your opinion. I understood you to say that where an article was not subject to any local competition, or any competition, the railroads charged what they pleased on it. Is that about the substance of what you said?

A. About. Under such conditions, they charge what they conceive to be a fair return for the service.

Q. Well, now, Mr. Tomlinson, do you know of any article shipped from any local railroad station in the State of Indiana, the rates upon which are not affected by competition either between carrier and carrier, or between product and product?

The COURT: Do you mean Indiana or Iowa?

Mr. BAXTER: Indiana or Iowa either.

A. I think all the less than car load rates, would not be materially, they might be slightly, but not to any appreciable extent, affected by competition.

Q. Well, will you name some one article that would fall in that category.

A. Well, take dry goods, groceries, boots and shoes, moving in less than car load quantities, and frequently in small packages, 100 pounds, I wouldn't think they were influenced much by competition.

2604 Q. Would you think that a merchant located at a local station on a particular road in Illinois, where there is a parallel line about ten miles distant from him, would pay a materially higher rate upon his less than car load shipments of merchandise than were paid by a merchant, or for the same kind of merchandise on a parallel line?

A. No, I would not think so.

Q. Then that would be influenced by competition between carrier and carrier, wouldn't it?

A. Yes sir, in the abstract it would. Of course, the rates are all checked in by the carriers on a certain basis, and there would not be any condition where a station ten miles from another would have a different rate.

Q. On all rates, both on less than car load as well as car load, they are not only affected by competition between carrier and carrier, but they are actually checked in by competing carriers and placed at the same figure for the same distance, is that not true?

A. That is true so far as being checked in. I cannot subscribe entirely to your statement about the competition, because I do not think there is a great deal of competition on less than car load stuff to local stations, but the rates in all this territory in Iowa are checked in by the different lines.

Q. Different competing lines?

A. Different competing lines, yes sir.

2605 Q. The object being to have about the same rates for opposite stations on parallel lines.

A. Yes sir, that is the idea.

Q. I wish you would state the rate from Kansas City, St. Joseph, Atchison and Leavenworth to Chicago on cattle and hogs, which originate beyond the Missouri River and are destined to New York or other points east of the Illinois-Indiana State line?

A. Originating on connecting lines west of the Missouri River?

Q. Yes, sir.

A. Eighteen and a half cents to Chicago, and Chicago junction points.

Q. Now, state the rate from said Missouri River cities to Chicago, on packing house product and fresh meat which originate at said Missouri River cities and are destined to New York and other points east of the Illinois-Indiana State line. All your packing house product originate on the River.

A. The rate to Chicago?

Q. Yes.

A. The rate to Chicago or Chicago junctions is 18½ cents.

Mr. SHAVER: Is that the proportional rate?

A. Yes, sir.

Mr. BAXTER: Yes.

Q. The local rate on packing house product is 18½ cents?

Mr. DAWES: Twenty on packing house product.

Mr. BAXTER:

Q. This is destined to New York.

2606 The WITNESS: Eighteen and a half cents is correct.

Mr. BAXTER:

Q. That is what I want. Then is it not true that the rate from said Missouri River Cities to Chicago on cattle and hogs, which originated beyond the Missouri River destined to New York and other points east of the Illinois-Indiana State line, is the same as, or not higher than the rate from said Missouri River cities to Chicago, on packing house product and fresh meats which originate at said Missouri River cities and are destined to New York and other points east of the Illinois-Indiana State line?

A. Yes, sir.

Q. What is the rate from Chicago to New York on cattle?

A. That is with one correction—except Sioux City.

Q. Well, except Sioux City.

A. And except of course, St. Paul and these intermediate Iowa points.

Q. St. Paul is not on the Missouri River though.

A. Yes; I understand.

Q. Now, what is the rate from Chicago to New York on cattle?

A. Twenty-eight cents.

Q. What is the rate on Hogs from Chicago to New York?

A. Thirty cents.

Q. What is the rate on packing house product and cured meat from Chicago to New York?

A. Cured meats in bulk, the rate is 35 cents, and on what
2607 is known as packing house product is 30 cents.

Q. Look at that tariff and see if you are correct about that, is it not 39 (handing paper to witness)?

A. Meats, fresh, dressed beef, sheep or hogs, 45 cents; meats, cured in bulk, car loads, per official classification, 35 cents.

Q. What is the rate on fresh meat from Chicago to New York?

A. Forty-five cents.

Q. Add the rate of 18½ cents on cattle from said Missouri River cities to Chicago, to the rate of 28 cents from Chicago to New York, and what is the total rate on cattle from said Missouri River cities via Chicago to New York on cattle?

A. Forty-six and a half cents.

Q. Now, add to the rate, 18.5 cents on hogs from Missouri River points to Chicago, the rate of 30 cents on hogs from Chicago to New York, and state what the total rate is on hogs from said Missouri River cities via Chicago to New York.

A. Forty-eight and a half cents.

Q. Add said rate of 18.5 cents on packing house product from said Missouri River cities to Chicago, to the rate of 35 cents from Chicago to New York, and state what the total rate on packing house products is from said Missouri River cities to New York?

A. Fifty-three and a half cents.

Q. Add said rate of 18.5 cents on fresh meats from said Missouri River cities to Chicago, to the rate of 45 cents from Chicago
2608 to New York, and state what the total rate from said Missouri River cities to New York is on fresh meat.

A. Sixty-three and a half cents.

Q. Then is it not true that said total combination rates on cattle and hogs from said Missouri River cities via Chicago to New York, are less, or at least not higher than the total combination rates on packing house products and fresh meats from said Missouri River cities via Chicago to New York?

A. Yes sir. On what is known strictly as packing house products, they would be the same, but on what is known as cured meats in bulk and fresh meats, the combination of the two rates would be less on the live stock.

Q. Are not the combination rates from said Missouri River cities via the Mississippi River crossings to New York, the same as are the above combination rates from said Missouri River cities via Chicago to New York?

A. Yes sir.

Q. In the case of dressed meat shipments, what amount of ice and other preservatives is necessary to be used?

A. About 6,000 pounds.

Q. How is it with reference to packing house products?

A. Somewhat less, between 3,000 and 4,000 pounds for the year around.

Q. Does the railroad company or the packer ice the car?

A. The packer.

2609 Q. What would you say is the value per ton of the ice and salt, or other preservatives used in a car of dressed meat?

A. I would not know accurately.
Q. Can you approximate it, Mr. Tomlinson?
A. No, I don't believe I could with any amount of accuracy.
Q. I wish you would refer to your brief before the Commission, page 8, and read in to this record what the term "packing house products" includes as used in the tariffs of the defendants.
A. That is in the record through the tariffs now on file.
Q. Is it?
A. Yes sir.
Q. Well, then, I will not burden you.
Mr. COWAN: He stated awhile ago that the tariffs gave it.
Mr. BAXTER: I wanted to get a description of those products, the question is withdrawn.
Q. You testified in this case before the Commission in November, 1902, did you not?
A. Yes sir.
Q. Please refer to page 405 and 406 of the stenographer's report of your testimony on that occasion, here handed you, and see if you did not state in effect that a published rate of 23 cents and a half on live stock, and an 18½-cent actual rate on packing house product had existed for ten or twelve years at the time you gave your testimony in that case. Take your time.

2610 A. I would like to read this.
Q. Certainly, take your time. My question was brief, I just want to get the substance of what you stated, or you can read the whole of it into this record if you desire to do so.
(Question read.)
A. Yes sir, those were the published rates in effect at that time, and had substantially been in effect for ten or twelve years with this exception, if you will permit me——
Q. Certainly.
A. The 23½-cent rate on live stock from the Missouri River is a basing rate, and no live stock moves under it. It was the published rate at that time, and is to-day.
Mr. COWAN: Judge Baxter, if you will permit me to ask him to explain at that point what he meant by the 18½-cent rate—whether you meant a published rate or whether you meant the actual net revenue paid.
A. The question referred to the actual rate on fresh meat and packing house product, which I stated was 18½ cents. The published rate during the major part of the ten or twelve years, in fact during nearly all that time, had been 23½ cents, but the actual rate was somewhere around 18½ cents.
Q. Explain how the difference came to be made, secretly or publicly?

2611 Mr. DAWES: I object.

A. By means of concessions, secret concessions, in the rate.
The COURT: That was on packing house products and dressed meat?
A. Yes, sir.

Mr. BAXTER.

Q. Now, Mr. Tomlinson, does your information satisfy you that those secret concessions from the published rates to which you have just referred have been going on during that ten or twelve years?

A. Yes, sir.

Q. They were concessions on the packing house rates?

A. Yes, sir; packing house and fresh meats.

Q. Now, I notice the following colloquy between you and Commissioner Prouty on that occasion:

"Commissioner PROUTY: Now, the testimony rather tends to show that the rate for ten or twelve years past has been 18½ cents on packing house products, the actual rate; what has been the rate on live stock for ten or twelve years?

"Mr. TOMLINSON: About the same.

"Commissioner PROUTY: So the discrimination has existed all these years against you?

"Mr. TOMLINSON: Yes, sir. No one has taken advantage of it. The packers have not opened up their houses or availed themselves of the discrimination which undoubtedly has existed."

2612 Is that correct as I have read it, Mr. Tomlinson?

A. Substantially, yes sir, that represents my present views.

Q. And your views then?

A. Yes sir.

Q. Mr. Tomlinson, you have in your brief at page 8, referred to a while ago, not only enumerated the articles which are classified as packing house products, but you have mentioned various packages in which they are shipped, such as barrels, boxes, tierces, and so forth. Are you able to give us the weights of those different barrels, boxes and so forth, used in the transportation of packing house products?

A. Not accurately. I would not be the most competent witness on that. I would estimate from the best information I can get that the weight of the packages in the average car load of packing house product would not be over two or three per cent. The weight of the barrel, containing barrel pork, is very heavy, it would probably weigh from 40 to 50 pounds, but there is such a small percentage of barrel pork made that, compared with the total tonnage, it would not amount to any appreciable figure.

Q. Well, would you say the same of boxes, casks and crates in which bacon is packed?

A. I would say that the boxes and crates in which bacon was packed would not represent to exceed 5 per cent. of the total weight of the package.

2613 Q. Now, lard seems to go in crocks, buckets, boxes and barrels, what would you say as to the weight of the packages as compared to the weight of the lard contained in them?

A. In the case of tin buckets of lard, the weight would not be over 4 or 5 per cent., and in barrels it would be larger, probably 10 per cent. Lard, when shipped between markets, or to large distributing points, frequently moves in tank cars, and it only moves in buckets when it is ready for final consumption.

Q. Mr. Tomlinson, have you filed as a part of your original testimony in this case, a copy of the Iowa Distance tariff?

A. I have filed an extract showing the rates on cattle and hogs under the Iowa Distance tariff. I did not file the entire tariff. I filed the schedule on cattle and hogs for the distances shown in that tariff.

Q. Well, have you a copy of it that you could spare to file in this record?

A. Yes, sir.

Q. Will you do so?

Mr. COWAN: It is such a big book, is the reason we did not file it.

Mr. BAXTER: If you will do this, I would rather have it than the book: Will you furnish a statement showing the rates under the Iowa tariff on cattle and hogs, and the distances from the following stations on the Chicago & Northwestern Railway to
2614 Cedar Rapids, namely: Norway, Blairstown, Belle Plaine, Ottumwa and Le Grand, Iowa.

A. To what points?

Q. To Cedar Rapids. Those stations are on the C. & N. W. railway, and I want a table to show the distance from each of those stations to Cedar Rapids, and the rates on cattle for those distances under the Iowa tariff?

A. I will do that with pleasure.

Q. Thank you, sir.

A. I will have to take the distances out of the Northwestern time table, or the official guide.

Q. That is all right. Either will do. Do you know any of the years Armour and Swift located their packing houses at Omaha. To refresh your memory, was it between 1888 and '90? I don't know that that is so.

A. I don't know accurately, no sir.

Mr. RANSOM: It was 1898 that Armour located at Omaha.

The WITNESS: I was thinking so. 1898 comports with my knowledge of when Armour went in there.

Mr. BAXTER:

Q. Well, when did Swift go in?

Mr. RANSOM: Swift has been there much longer than that.

The WITNESS: Much longer; I could not give the exact year.

Mr. BAXTER:

Q. Do you know when the Cudahy house was located at Sioux City?

A. That was I think, in 1900, or 1901, I am not quite certain.

2615 Q. Mr. Tomlinson, a good deal has been said in this case about an arbitration by which the rates on live stock and packing house product and fresh meat and so forth from Chicago to New York was adjusted. Who did you say were the arbitrators that acted on that occasion, Judge Cooley?

A. Albert Fink and Judge Cooley, that was the arbitration in 1883.

Q. Did they publish their award?

A. It was published in a pamphlet, yes sir.

Q. Did the arbitrators publish their opinion setting forth the reasons that controlled them?

A. Yes sir.

Q. Have you got that document?

A. Yes, sir.

Q. Will you file it in this case?

A. I have got it in the shape of part of the original records in the Squire case.

Q. That case has been decided and ended. I reckon we might as well import it into this case.

A. That is a matter for Mr. Shaver.

Mr. COWAN: It is a lengthy document and it is a part of the original record.

Mr. BAXTER: Will you allow it to be used in argument, that is all I want, I don't want to take it away from you, I just want to get at it.

Mr. COWAN: I would not like to do that because when we offerred Mr. Tomlinson's explanation in regard to it, it was
2616 objected to, and the objection sustained.

The COURT: If they want to use it——

Mr. BAXTER: I only wanted to use it in argument.

Mr. COWAN: If I knew what points you desired to use in argument, then I might want some explanations from Mr. Tomlinson relative to it.

The COURT: Let Mr. Tomlinson tell you, and then you can tell the Court in the course of your argument.

Mr. BAXTER: The only thing I have, is this: I have no concealment to make about it. I want to see the reasoning by which the arbitrators reached their conclusion in that case.

Mr. COWAN: You are very welcome to examine it, more than welcome to examine it.

Mr. BAXTER: That is all I want.

Q. Mr. Tomlinson, do the expert buyers, and buyers for the Eastern slaughterers that buy here in Chicago, do they belong to the Chicago Live Stock Exchange, or are they outside of that?

A. A large number of them are members of the Live Stock Exchange. There may be some who are not, they probably are.

Mr. LYNDE: That is, of the buyers here in Chicago market?

A. Yes, sir.

Mr. BAXTER:

Q. Mr. Tomlinson, please look at page 70 of the statistics of
2617 railways of the United States for the year 1903, and at the map showing the division of the United States into traffic groups, published as an appendix to that volume and state which of the groups covers what is known as Central Freight Association territory?

A. Group 3.

Q. What does group 2 represent?

A. Group 2 covers New York, Pennsylvania, part of Maryland, New Jersey and Delaware; I think it covers all of Maryland.

Q. Now, what does group 3, what states does group 3 cover?

A. Group 3 covers all of the States of Ohio, Indiana, the northwestern part of Pennsylvania, the southwestern part of New York—only a small part of it, and all of Michigan south of the Lake.

Q. I understand you to say that group 3 includes this Central Freight Association territory that we have been talking about?

A. Yes sir, group 3, in other words, includes that part of New York on and west of Buffalo and Pittsburg.

Q. Now, what does group 6 cover?

A. Group 6 covers Illinois, Wisconsin, Iowa and Minnesota entirely, parts of Michigan, parts of Missouri, and parts of North and South Dakota.

Q. Now, will you turn to, I think it is page 93 there, and give me the average number of passengers carried one mile per mile of line in group 2 for that year.

2618 A. 242,521.

Q. Now, for group 3.

A. 118,589.

Q. Now, for group 6.

A. 80,190.

Q. Now, give me the number of tons of freight carried one mile per mile of line in group 2.

A. 2,070,958.

Q. In group 3.

A. 1,443,062.

Q. In group 6.

A. 706,415.

Q. Now, in arriving at the density of traffic either freight or passenger do you not use the statistics that you have just read?

A. Yes sir.

Q. That is all.

Mr. COWAN:

Q. Mr. Tomlinson, is it not a fact that in group- 2 and 3, that the mileage upon which density of traffic is estimated does not consider the double, treble and fourth tracks on those railroads?

A. Yes sir.

Q. It takes the actual lineal mileage of the particular railroad?

A. Yes sir.

Q. Now, if you were to divide the gross tonnage by the mileage, considering the amount of double track, it would make a very different showing, would it not?

A. Very materially, and that has to be taken into consideration in any computation made.

Q. That is explained elsewhere in the report of the Com-

2619 mission what the bases are?

A. Yes sir.

Mr. DAWES:

Q. Is the double track considered in any of these groups?

A. No sir.

Q. So that the relation between the two remain just the same?

A. In reporting their mileage to the Interstate Commerce Commission, the roads give so many miles of main line track; that may be double, treble or four track, it is not considered.

Q. So they are all considered alike, the different groups, are they not?

A. They are all considered alike, no matter whether they have got four tracks or one track.

Q. So that the relations, as Mr. Cowan suggests, would not be changed at all?

A. Why, yes.

Q. The figures might be changed, but the relations would not.

Mr. COWAN:

Q. Is it not a fact Mr. Tomlinson, that the proportion of double track mileage, three and four track, in groups 2 and 3, are three or four times as great as the proportion in group 6?

A. I would say, it is very materially greater, at least twice and perhaps three times.

Mr. DAWES:

Q. Did you ever figure it out at all, isn't that just a guess that I could make as well as you?

A. Probably you can make it better than I can. I was
2620 asked for my opinion. I do not consider it an opinion—it is an opinion based on my knowledge of what lines have double tracks east of Chicago. There is only one line west of Chicaga that has got a double track between here and the Missouri River—that is the Chicago & Northwestern Railway. When a line has all the traffic it can handle on a single track, why that certainly has got to be taken into consideration in figuring the density of traffic in its relation to rates.

Mr. BAXTER:

Q. Without referring to the statistics published by the Interstate Commerce Commission, do you have any doubt in your mind that the density of traffic both passenger and freight per mile of line, or in any other way that you want to calculate it, is very much greater in groups 2 and 3 than it is in group 6?

A. I would say it was greater per mile of main line, and slightly greater per mile of track.

Q. Well, leave out the railroads altogether, what do you say about the density of people, and density of freight in group 6 as compared with groups 2 and 3?

A. It is much less than in groups 2 and 3.

Q. I hand you a memorandum that has been passed to me—I know nothing about the facts—as probably suggestive to
2621 you of when those packing houses were put in at Omaha. Look at it and see.

Mr. DAWES: That is stated in the report of the packing houses at the Omaha Stock Yards.

Mr. BAXTER: State whether those dates accord with your recollection. If so, read them into the record.

A. The only one I can recollect is that Armour started to build in 1897, which I recall now vividly, is correct. I do not know about the establishment of the Hammond Packing Company, or the Anglo-American, or the Swift. It is in the record.

Mr. COWAN: It is in evidence.

Mr. DAWES: The whole book is in evidence.

Mr. COWAN: I will not controvert it. We put it in evidence, the whole book for South Omaha.

The COURT: Mr. Shaver, do you want to ask some questions?

Mr. COWAN: Before you leave that question of the density of traffic, I will ask you if it is not a fact that in the territory between Chicago and the Missouri River in the State of Iowa, that the density of traffic is as great as the average density of traffic in the territory in group 3, compared per mile of line of railroad? What is your opinion about that?

A. Considering the double tracks east of Chicago, or west of Chicago as one mile of railroad, my opinion is that the traffic
2622 in group 3 is slightly more dense than in the territory strictly between Missouri River and Chicago. Take the line of The Alton Road, or the Chicago & Great Western operating exclusively between the Rivers, and St. Paul in the case of the Great-Western, and Chicago, the density is much greater than the average for group 6; and in the case of The Alton, it is not materially different from the statistics for group 3.

Mr. BAXTER: Now, Mr. Cowan I find—I beg pardon, I thought you were through (addressing witness).

The WITNESS: The density west of the Missouri River, in trans-Missouri territory is much less than in Iowa.

Mr. BAXTER: In turning my notes over here for cross examination of Mr. Tomlinson, I find I turned two pages at once. Will you permit me to ask some more questions.

Mr. COWAN: Certainly.

Mr. BAXTER: Have you any statistics covering a period of years as to the slaughtering of cattle and hogs at Cedar Rapids, Des Moines, Oskaloosa, Ottumwa, Waterloo, Boone, Fort Dodge and Marshalltown?

A. I have the statistics shown in the Cincinnati Price Current which I put in evidence, and which covers the slaughtering of hogs at those interior Iowa points. There are no published statistics so far as I know of the slaughtering of cattle at the markets
2623 you name. The statistics as to the slaughtering of hogs is in the record as an exhibit now.

Q. Well, does the same publication show the statistics covering the period of years of the receipts of cattle and hogs at those points?

A. It does not show any information as to the receipts, simply the slaughtering.

Q. Have you outside of that publication, any statistics on that point?

A. No sir.

Q. In your testimony in this case before the Commission, you

put in certain exhibits somewhat similar to those which you have put in evidence in this case, showing a comparison between the rates on live stock and packing house products charged in the territory east of the Missouri River, and the rates charged upon the same commodities in other territories, did you not?

A. Yes sir, I did not file that in this case however.

Q. You filed comparisons with the Illinois Tariff, didn't you, and the Iowa Tariff?

A. Yes sir.

Q. And the Central Freight Association Tariff?

A. Yes sir.

Q. In this case?

A. Yes sir.

Q. And in that?

A. Yes, sir. Pardon me, I thought you were referring to another exhibit which I did not file in this case

2624 Q. Now, I will ask you whether you did not say in your examination before the Commission, with reference to those comparisons as follows: "It is a very difficult thing to pick out any territory and say that it would be fairly compared with this section of country east of the Missouri River."

A. I probably said that, I am willing to admit that I said it, certainly.

Q. That is all.

Mr. COWAN:

Q. Why. I would like him to give his reasons.

A. Because you cannot find any territory precisely similar as to the density of traffic, the character of the traffic or any other pertinent elements that should be considered in making any comparison. For example, take the rate from Kansas on live stock in to Kansas City, traffic out there is less dense than it is in Iowa, and on that basis the rates from Kansas points in to Kansas City ought to be higher than from Iowa points in to Chicago, and it is not the case.

Q. Just the other way, isn't it?

A. Just the other way.

The COURT: Now Mr. Shaver ask your question.

2625 Examination by Mr. SHAVER:

Q. Mr. Tomlinson, does the 18½-cent proportional rate apply on any shipment of live stock to Chicago proper as the point of final destination?

A. No, sir.

Q. Does it not apply exclusively on shipments to points east of the Illinois-Indiana State line?

A. Yes, sir, except where the balance of the rate might be the same as the 18½ cents.

Q. Does the proportional rate of 18½ cents apply on any shipments to Chicago of live stock from points in the territory from 100 to 150 miles wide east of the Missouri River?

A. No sir, it does not.

Q. Does not the 23½ cent rate apply exclusively from the River, and from points in that territory east of the River to Chicago proper?

A. It applies exclusively from the territory east of the Missouri River. And so far as Sioux City is concerned, the rate instead of being 23½ cents, is 25 cents on cattle, and as I have previously stated it is higher also for St. Paul than from the Missouri River.

Q. These proportional rates do not apply on any shipment to Chicago proper?

A. No sir. The proportional rates—no sir, they do not.

Q. Now, Mr. Baxter asks you about the combination rates
2626 from the Missouri River and points west of the Missouri via Chicago, I believe, to the East, to New York.

A. Yes sir.

Q. In your testimony in regard to those combination rates, did you make the rate from Missouri River to Chicago the 18½-cent proportional rate?

A. Yes sir.

Q. You did not use the 23½ cent rate to Chicago?

A. No sir.

Q. That proportional rate is a part of a through rate on traffic that does not stop at Chicago but goes on to New York, is it not?

A. Yes, sir.

Q. Now, suppose you had used the 23½ cent rate to Chicago, plus the rate from Chicago on to New York, would your answers have been the same?

A. No sir, not quite the same.

Q. That combination rate would be higher than the rate on packing house products direct from the Missouri River to New York, would it not?

A. Yes sir, it would be 5 cents higher—it would be 5 cents higher on what is known as strictly packing house products, the same on cured meats in bulk, but the combination on cattle would be less.

Q. Mr. Tomlinson, take a steer of the gross weight, for con-
2627 venience of calculation, of 1,000 pounds. The 23½ cent rate per hundred pounds on the 1,000 pounds amounts to $2.35, ten times 23½ cents?

A. $2.35, yes sir.

Q. Take the amount of product in that steer which can be made merchantable as 70 per cent., or 700 pounds; the rate of $2.35 on this 700 pounds of product amounts to 33 4/7 cents per hundred pounds. The rate on prepared product is 20 cents per hundred pounds or less. Deduct 20 cents for 33 4/7 cents, and we have 13 4/7 cents per hundred pounds as the excess of the rate on the product of the live steer over the rate per hundred pounds on the prepared product, do we not?

A. Yes sir.

Mr. DAWES: This is argument.

The COURT: Let him proceed.

Mr. SHAVER:

Q. Does it not follow, therefore, that to the extent of 13 4/7 cents per hundred pounds, the Misouri River packer, the shipper of the prepared product to Chicago has the advantage of the shipper of the

live stock from the River, or from the territory east of the River in which the 23½ cent rate prevails?

A. Yes, sir.

A Recess was here taken until 2 o'clock p. m. of the same day, Wednesday, October 11, 1905.

2628 WEDNESDAY, *October* 11, 1905—2 o'clock p. m.

Court met pursuant to adjournment.

Counsel present same as before.

Whereupon EDWARD E. BETTS, called as a witness on behalf of the complainant in rebuttal being first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. What position do you hold with the North Western Road?

A. Car service Agent.

Q. You were summoned to produce a statement showing the actual train load of trains moving out of certain division points, I believe it was Boon and Clinton. Subsequently I stated to you that Clinton would be sufficient.

A. Yes.

Q. Have you prepared the statement?

A. Yes sir, I have them here.

Q. They correctly show the actual train consists of all trains included in the statement?

A. Yes sir, they do.

2629 Q. Fifteen days in January, April, and October, the period named in the statements.

A. Yes sir, 15 days in January and April, 1905, and 15 days in October, 1904.

Q. Those are fairly representative of the actual consists of the trains?

A. Yes, they are.

Q. You may file that as an exhibit to your testimony.

A. I have the other here.

(The statement first above referred to is marked "Betts' Exhibit No. 1.")

Mr. COWAN: By agreement between Mr. Lynde and myself, a witness was to file a statement showing the actual wheel reports for certain trains between certain dates.

Q. Have you those figures?

A. I have those.

Q. Are they fairly representative of the wheel reports generally?

A. Yes sir.

Q. You may file that also as an exhibit to your evidence.

A. The net tonnage on these I have also figured at your request.

Mr. COWAN: Well, that was at the request of Mr. Lynde and I, both.

The WITNESS: Yes, and the other statement that you asked for, of the weight of the empty cars is attached to the top of this (presenting paper).

Q. That is the report, a sample of the report which the conductors are directed to submit?

A. Yes sir.

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Betts Ex No 1 — October 1904 — 2629

Date	Train No	Engine No	No Cars Stock	Time Left and Finished	No Cars Dead	No Cars empty	Total No Cars	Tot. Tonnage of Train
Oct 1-1904	122	162	0	10	4	7	21	
" 1 "	318	40	0	8	12	8	28	
" 1 "	Ex Davey	268	0	7	23	4	34	1320
" 1 "	" Land	495	2	21	5	7	35	
" 1 "	" Clark	135	0	3	0	0	3	
" 1 "	" Pierce	883	0	28	0	0	28	985
" 1 "	120	384	1	29	0	0	30	1020
" 1 "	Ex Jackson	312	0	0	30	3	33	1378
" 1 "	132	131	0	0	31	0	31	1350
" 1 "	Ex St Louis	12	0	0	30	0	30	1385
" 1 "	" Garrow	209	0	24	11	5	40	1272
" 1 "	" Bates	919	14	2	15	5	36	1211
" 1 "	" Koehler	83	0	0	16	18	34	1384
" 1 "	" Ketchen	1081	1	11	10	9	31	1001
" 1 "	" Wright	301	0	2	27	4	33	1458
" 1 "	" Tillotson	74	0	0	0	50	50	750
" 2 "	" Rockhrens	272	28	0	0	14	42	1080
" 2 "	318	284	0	7	19	6	32	
" 2 "	Ex Rodick	16	26	0	0	0	26	847
" 2 "	" Grimes	864	0	22	10	0	32	1166
" 2 "	" Hemming	267	39	0	0	0	39	1182
" 2 "	" Carey	312	30	0	0	0	30	817
" 2 "	126	77	0	29	1	0	30	1136
" 2 "	Ex Johnston	339	0	1	29	9	39	1421
" 2 "	" Lloyd	12	31	0	0	0	31	930
" 2 "	" Riedelsdorf	337	22	0	7	0	29	1015
" 2 "	" Bonholzer	47	22	0	12	0	34	1177
" 2 "	" W Donohey	301	29	0	0	0	29	870
" 2 "	" W Smith	867	0	33	2	4	39	1250
" 2 "	" E Smith	683	31	0	0	0	31	853
" 2 "	" H Hills	82	26	2	4	0	32	943
" 2 "	" Ingham	338	40	0	0	0	40	1195
" 2 "	" Hurley	266	22	0	8	0	30	1013
" 3 "	122	715	0	13	6	5	24	
" 3 "	318	74	0	10	16	4	30	
" 3 "	Ex Lundy	34	0	6	25	8	39	1422
" 3 "	" Virgil	266	0	14	8	0	22	830
" 3 "	" Kohler	47	0	16	12	18	46	1243
" 3 "	" Ward	883	3	21	7	0	31	1042
" 3 "	" Hahn	77	0	2	28	1	31	
" 3 "	" Jackson	384	21	0	8	0	29	945
" 3 "	126	465	0	24	5	1	30	
" 3 "	Ex Pierce	919	0	0	32	0	32	1408
" 3 "	" Wright	139	0	0	3	5	8	
" 3 "	" Davey	268	22	0	0	0	22	630
" 3 "	" Draper	16	17	0	13	0	30	1063
" 3 "	" C. Smith	40	24	0	0	0	24	720

October 1904

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Date	Train No	Engine No	No Cars Work	No Cars Time Ext and Unsatisfy	No Cars Dead	No Cars empty	Total No of Cars	Total Tonnage of Train
Oct 3-1904	132	83	8	0	19	1	28	1016
" 4 "	E. Grimes	301	21	11	0	0	32	1015
" 4 "	122	723	0	9	4	11	24	
" 4 "	318	272	1	5	18	4	27	924
" 4 "	E. Woodworth	465	22	0	5	7	34	660
" 4 "	" Lindemier	1025	19	0	7	0	26	870
" 4 "	" Lane	339	1	11	9	21	42	1035
" 4 "	" Marsden	215	0	1	19	0	20	978
" 4 "	120	312	0	28	0	0	28	889
" 4 "	E. Van Kirk	12	0	0	22	11	33	1345
" 4 "	132	181	32	0	0	0	32	1042
" 4 "	E. FA Clark	Not Given	0	0	0	2	2	
" 4 "	" Bonholzer	337	0	0	28	6	34	1392
" 4 "	" Cruikman	683	8	15	11	6	40	1292
" 4 "	" Mc Nichols	82	0	0	30	4	84	1305
" 5 "	132	724	0	10	5	8	23	
" 5 "	E. Ketchen	83	0	0	27	8	35	1344
" 5 "	318	284	0	4	20	8	32	
" 5 "	132	267	32	0	0	0	32	957
" 5 "	E. Carey	77	0	1	13	53	67	1328
" 5 "	" Johnston	47	0	0	32	0	32	1293
" 5 "	" Buderstadt	139	0	1	4	0	5	
" 5 "	128	867	1	20	15	2	38	1303
" 5 "	E. Cloyd	333	35	0	0	0	35	1060
" 5 "	" Rounday	919	2	20	7	0	29	1115
" 6 "	120	384	0	30	1	1	32	1064
" 6 "	E. Rorebraugh	74	0	1	7	17	25	
" 6 "	128	266	0	24	12	4	40	1306
" 6 "	E. Kohler	1303	0	0	19	6	25	915
" 6 "	" W Donerby	520	9	0	5	5	19	
" 6 "	" E Smith	339	0	30	0	0	30	1020
" 6 "	132	131	38	0	0	0	38	1340
" 6 "	" De Wolf	883	7	22	1	7	37	1115
" 6 "	" Lundy	215	0	0	19	0	19	885
" 6 "	" Grimes	1025	3	6	12	0	21	901
" 6 "	Draper	337	0	0	26	15	41	1261
" 6 "	122	723	0	12	6	6	24	
" 6 "	E. Wright	12	0	13	19	2	34	1362
" 6 "	318	34	0	5	12	1	18	
" 7 "	E. Bonholzer	333	0	18	11	13	42	1300
" 7 "	132	267	17	1	0	13	31	711
" 7 "	E. Carey	215	0	0	20	0	20	868
" 7 "	120	312	1	32	0	0	33	1122
" 7 "	126	306	12	13	4	2	31	1062
" 7 "	128	867	0	25	11	6	42	1243
" 7 "	E. Greenway	465	0	5	26	21	52	1428
" 7 "	122	724	0	13	4	10	27	

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October 1904.

2629c

Date	Train No	Engine No	No Cars Stock	No Cars Iron Ore Furnish	No Cars Dead Furnish	No Cars empty	Total No of Cars	Total Tonnage of Train
Oct 7-1904	Ex Hahn	301	0	7	13	6	26	1383
" 7 1904	318	40	0	4	24	7	35	
" 8 "	Ex Pierce	313	0	0	28	6	34	1305
" 8 "	" McNichols	1303	0	3	1	4	8	
" 8 "	" Ketcham	83	0	4	24	2	30	1260
" 8 "	" Flowers	384	0	22	0	0	22	802
" 8 "	120	312	0	29	0	0	29	913
" 8 "	126	883	6	20	4	6	36	1104
" 8 "	Ex E Smith	1080	0	19	7	0	26	992
" 8 "	" Bardenstadt	209	0	1	3	0	4	
" 8 "	132	131	14	0	1	16	41	1176
" 8 "	128	147	0	28	9	4	41	1285
" 8 "	Ex Johnston	266	0	22	6	7	35	1668
" 8 "	122	723	0	9	8	4	21	
" 8 "	318	34	0	4	28	13	45	1371
" 9 "	Ex Riddle	139	34	0	0	0	34	1042
" 9 "	" Young	3	23	13	0	0	36	1070
" 9 "	" Moore	12	36	0	0	0	36	1080
" 9 "	" Hahn	266	34	0	0	0	34	1016
" 9 "	" Taylor	267	36	0	0	0	36	1080
" 9 "	" Draper	301	20	4	5	2	31	894
" 9 "	" Lundy	77	28	0	0	0	28	336
" 9 "	126	465	6	16	8	1	31	1143
" 9 "	Ex Ingham	322	15	1	15	1	32	886
" 9 "	" Lloyd	919	0	3	27	25	55	1648
" 9 "	" Virgil	384	2	23	1	6	32	1071
" 9 "	120	82	0	15	0	0	15	450
" 9 "	Ex W Smith	867	38	0	0	0	38	1140
" 9 "	" Van Kirk	40	36	0	0	0	36	1152
" 9 "	318	284	0	5	17	11	33	
" 10 "	Ex Hurley	629	20	0	0	0	20	600
" 10 "	" Murphy	272	35	0	0	0	35	1050
" 10 "	" Jackson	1303	20	0	0	0	20	600
" 10 "	132	304	31	0	0	0	31	922
" 10 "	Ex Bonholzer	337	0	27	0	0	27	986
" 10 "	" Van Kirk	322	1	17	15	1	34	1328
" 10 "	126	883	2	18	12	3	35	1290
" 10 "	Ex J Carey	919	22	11	2	0	35	1001
" 10 "	" Benton	77	23	0	0	0	23	690
" 10 "	" Pierce	47	22	1	0	0	23	633
" 10 "	" Davey	284	32	0	0	0	32	870
" 10 "	" Jackson	34	28	0	0	0	28	846
" 10 "	318	268	0	7	13	8	28	1404
" 10 "	122	724	0	9	4	1	14	
" 10 "	Ex Clark	275	0	0	13	6	19	618
" 11 "	122	162	0	11	4	2	17	
" 11 "	Ex Draper	266	0	2	29	9	40	1409

October 1904.

Date	Train No	Engine No	No Cars Stock	No Cars Live Stock and Ballast	No Cars Coal Fit	No Cars empty	Total No of Cars	Total Tonnage of Train
Oct 11 1904	318	40	3	4	18	16	41	1246
" 11 "	E. Lloyd	83	0	3	21	10	34	1225
" 11 "	" Adams	139	1	0	0	1	2	
" 11 "	132	131	33	0	0	0	33	961
" 11 "	E. McNichols	919	20	0	8	0	28	971
" 11 "	" Ingham	301	0	0	30	0	30	1347
" 11 "	" Bumbulger	322	20	5	3	0	28	935
" 11 "	128	117	0	10	16	17	43	1186
" 11 "	E. Wright	337	12	12	7	4	35	1274
" 11 "	" Young	384	31	0	0	0	31	924
" 11 "	" C Smith	328	31	0	0	0	31	889
" 11 "	120	312	0	16	1	0	17	
" 11 "	126	465	0	19	7	4	30	971
" 12 "	122	734	0	6	7	0	13	
" 12 "	120	864	1	22	2	2	27	944
" 12 "	E. Mc Wolf	306	10	14	6	16	46	1122
" 12 "	132	267	31	0	0	0	31	900
" 12 "	E. Riddle	209	12	0	1	0	13	
" 12 "	128	867	1	35	0	3	34	1246
" 12 "	E. Moore	312	9	0	15	1	26	1066
" 12 "	" Greenway	333	30	0	0	0	30	890
" 12 "	" Pierce	83	38	0	0	0	38	1017
" 12 "	" Hatcham	465	21	0	9	0	30	1005
" 12 "	" Blackman	304	0	12	17	11	40	1181
" 12 "	Ward	77	0	17	1	11	29	804
" 13 "	122	272	0	7	2	0	9	
" 13 "	E. Lane	337	1	23	8	3	35	1150
" 13 "	" E Smith	266	0	8	10	12	30	948
" 13 "	Van Kirk	77	0	2	15	0	17	1319
" 13 "	" Clark	139	0	0	2	7	9	
" 13 "	128	47	0	23	13	9	45	1280
" 13 "	E. White	419	0	6	3	28	47	1344
" 13 "	" Benton	1015	1	25	1	0	26	528
" 13 "	" Kohler	306	34	0	0	0	34	889
" 13 "	" Carey	1018	0	0	20	0	20	886
" 13 "	" Tollyson	322	0	4	28	3	35	1378
" 13 "	318	284	0	0	0	2	22	
" 13 "	E. J Carey	384	24	1	11	1	37	1297
" 13 "	132	131	30	0	0	0	30	910
" 13 "	120	312	0	26	3	5	34	1099
" 14 "	" 122	734	0	7	0	6	13	
" 14 "	116	209	0	1	1	1	3	
" 14 "	E. Marsden	1303	0	3	14	4	21	764
" 14 "	" Johnston	864	26	2	0	8	36	1331
" 14 "	128	867	0	17	2	2	34	1278
" 14 "	126	883	1	30	3	0	34	1186
" 14 "	318	629	0	7	24	19	50	1637

October 1904

2629[1]

Date	Train No	Engine No	No Cars Stock	No Cars Stock Empty	No Cars Dead Freight	No Cars empty	Total No of Cars	Total Tonnage of Train
Oct 14 1904	132	131	17	0	12	0	29	977
" 15 "	122	301	0	8	7	7	22	
" 15 "	120	919	0	12	10	0	22	822
" 15 "	Eastward	465	0	19	9	5	33	1158
" 15 "	128	47	0	18	19	8	45	1319
" 15 "	E. Lloyd	82	0	0	28	0	28	1241
" 15 "	" Wright	83	0	5	22	10	37	1234
" 15 "	" Carey	1018	0	1	19	0	20	901
" 15 "	116	683	0	4	12	3	19	
" 15 "	E. Bonholzer	333	2	0	25	0	27	1229
" 15 "	" Ingham	139	0	14	19	0	33	1385
" 15 "	" Innes	629	0	0	25	20	45	1410
" 15 "	" Bowley	272	0	1	25	17	43	1372
" 15 "	" Cruthrane	304	3	7	21	3	34	1392
" 15 "	" 318	77	0	5	28	9	42	1392
" 15 "	132	131	23	1	8	0	32	

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June 1905

2629

Date	Train No.	Eng. No	No cars start	No cars Empty Loaded	No cars passed	No with Cars	Total No Cars	Total tonnage
Jan 1 1905	Gr McNichols	333	24	1	4	7	36	965
	" Kitchen	1018	24	0	0	0	24	720
	170	16	6	17	10	0	33	1961
	176	306	1	26	1	0	28	996
	" Scharenberg	1018	25	0	0	0	25	750
	" Wright	870	24	0	0	0	24	720
	" Lake	850	35	0	0	0	35	1050
	" Neally	301	35	0	0	0	35	1050
	" Glazer	324	33	0	0	0	33	973
	" Woodward	24	35	0	0	0	35	1050
	" Reese	264	35	0	0	0	35	947
	" Ingham	918	33	0	0	0	33	991
	" Hopkins	683	33	0	0	0	33	993
	" Mark	384	35	0	0	0	35	924
	" Barnwell	313	33	0	0	0	33	990
	" McDaniels	909	34	0	0	0	34	1054
	Van Kirk	131	33	0	0	0	33	967
	" Manning	331	30	0	5	0	35	1107
	" Benton	47	0	0	1	3	4	
	" Cash	182	35	0	0	0	35	1050
	" Marston	334	0	24	2	4	30	900
	" Daniel	74	30	0	5	0	35	1185
	318	12	0	9	17	3	29	1082
2nd 1905	" Morris	1149	0	6	24	5	35	1223
	" Brickman	266	0	0	8	0	8	284
	132	304	19	0	10	0	29	1030
	" Moore	864	18	7	0	6	31	982
	" Kennedy	93	4	14	8	4	30	981
	" Daniels	284	0	16	6	5	27	926
	176	34	0	24	6	13	43	1334
	116	968	0	3	0	1	4	
	" Hahn	1078	0	0	8	1	9	349
	128	341	0	16	11	9	36	1089
	" Lundy	308	0	0	29	0	29	1371
	" Bates	267	0	0	33	0	33	1337
	" Marsglen	1014	0	1	20	0	21	926
3rd 1905	318	24	0	13	18	4	35	1151
	" Jackson	883	0	0	31	2	33	1516
	Knudsen	16	0	0	9	47	56	1276
	86	706	0	11	3	0	14	
	176	12	12	11	6	8	37	
	178	679	0	5	22	1	28	1188
	132	117	30	0	0	0	30	900
	" Jordan	40	0	1	28	0	29	1359
	" Hamilton	870	0	21	2	0	23	892
	" Schmidt	333	30	0	0	0	30	870
	" McNichols	464	30	0	0	0	30	900

June 1905 - (Cont.)

2629

Date	Train No	Engine No	No cars Stock	No cars Empty Private Line	No cars Empty Road Line	No cars Empty	Total No Cars	Total Tonnage
June 3rd 1905	116	74	0	1	0	1	2	
	170	137	0	15	5	2	22	790
	" Taylor	306	0	0	28	0	28	1375
	" Midleton	209	24	0	0	0	24	750
	" Barry	1091	0	0	16	6	22	815
June 5th 1905	318	46	0	6	13	0	19	737
	" Wright	275	0	1	31	5	37	1790
	178	870	7	21	7	4	34	888
	132	304	28	0	0	0	28	840
	" Pierce	880	5	0	16	1	22	
	" Bates	331	5	0	17	1	23	932
	" Schoenberg	284	0	0	26	0	26	1228
	126	83	4	17	0	8	29	790
	" Hill	265	31	0	0	0	31	930
	" Healy	384	0	1	27	0	28	1298
	" Ingham	683	26	0	0	0	26	766
	" Rahendy	267	0	0	28	1	29	1232
	" Greenway	313	0	0	28	0	28	1258
	862	774	0	9	1	0	10	
	" Cole	40	31	0	0	0	31	930
	116	804	0	1	0	2	3	
	" Marsden	1091	0	0	12	15	27	717
June 6th 1905	318	754	0	15	5	1	24	809
	" Moore	333	0	0	32	0	32	1470
	862	710	0	9	3	0	12	
	" Wolf	82	1	21	4	6	32	1056
	132	131	32	0	0	0	32	960
	178	47	0	21	8	6	35	1205
	170	284	0	17	3	0	20	675
	116	309	0	0	0	4	4	
	" Draper	372	11	0	10	0	21	797
	" Lyons	12	0	6	24	10	37	1443
	" Sheahan	276	2	11	0	0	13	
	" Strauss	863	0	7	9	19	35	1123
	" Morris	880	0	0	34	0	34	1497
	" Riddle	83	19	0	10	0	29	969
June 8th 1905	" McNichols	653	0	0	23	32	55	1309
	" Wright	275	0	1	33	2	36	1329
	Hill	16	0	10	4	0	14	
	862	774	0	8	5	0	13	
	132	967	36	0	0	0	36	1030
	" Hagarty	215	0	0	26	4	30	1176
	" White	339	4	26	0	0	30	1078
	" Marsden	1015	0	1	19	0	20	918
	178	313	3	23	6	2	34	1067
	116	46	1	0	0	1	2	
	" Brundage	263	2	23	0	0	25	842

Jan. 1905 - (Cont.)

2629

Date	Train No	Eng No	No cars Stock	No cars Grain & Furniture	No cars Seed &c	No empty cars	Total No cars	Total Tons
Jan 6th 1905	176	465	1	21	6	10	38	
6th	Ex. C. Smith	760	0	0	31	0	31	1465
Jan 7th 1905	" Grimes	331	0	0	31	1	32	1421
	" W.C. Dandy	584	0	1	33	0	34	1498
	116	709	0	0	0	2	2	
	" Rowsely	870	1	23	4	0	28	577
	" Schoenberg	866	0	5	31	2	38	1397
	132	880	7	1	19	0	27	1111
	" Barlow	104	0	0	20	2	22	828
	178	47	4	14	0	27	45	957
	" Preuss	883	0	0	24	14	38	1387
	" Ketchum	276	0	0	27	33	55	1395
	318	272	0	0	27	0	28	1014
	86	724	0	9	1	2	12	
Jan 8th 1905	" Jackson	384	29	0	0	0	29	864
	" Ingham	131	30	0	0	0	30	953
	" Jayne	339	29	0	0	0	29	870
	" C. Smith	1014	23	0	0	0	23	690
	" King	384	1	15	9	4	29	1145
	" Lamb	465	1	23	5	0	29	1060
	" Wright	82	30	0	0	0	30	908
	" Benton	919	30	0	0	0	30	900
	" Virgil	46	0	2	0	0	2	
	" Melly	12	0	20	3	6	34	1018
	" Crane	341	0	27	4	3	34	939
	" Taylor	266	1	20	5	0	26	985
	" Riddle	306	28	0	0	0	28	840
	" Yorkirk	263	33	0	0	0	33	990
	" Sheehan	324	33	0	0	0	33	975
	" Barnwell	267	30	0	0	0	30	900
	" White	683	30	0	0	0	30	900
	" Moore	333	30	0	0	0	30	896
	" Greenway	864	30	0	0	0	30	866
	" Hill	275	34	0	0	0	34	1020
	" Cole	313	31	0	0	0	31	864
	" Bates	83	34	0	0	0	34	963
	318	40	0	9	5	1	15	
	" Ingham	131	30	0	0	0	30	943
Jan 9th 1905	" McNichols	47	22	0	0	0	22	660
	116	209	0	0	0	1	1	
	" Rodonick	137	28	0	0	0	28	739
	132	908	21	0	0	0	21	630
	178	864	0	5	10	23	38	1074
	" Barlow	104	0	0	18	1	19	836
	" Grimes	16	0	0	31	0	31	1343
	" Morris	639	1	0	31	3	35	1384
	318	272	0	3	2	0	5	

June 1905 (Cont'd)

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26294

Date	Train No.	Eng No.	No cars stock	No cars Pine Hill frt	No cars Coal frt	No mdse cars	Total No Cars	Total Tonnage
June 9th 1905	186	870	1	6	16	1	24	953
	Ex Downey	74	0	0	28	15	43	1370
	" Marston	276	0	1	9	46	56	1313
	862	710	0	9	3	0	12	
June 10th 1905	" White	683	24	0	0	0	24	770
	116	46	0	3	1	4	8	
	" Bates	82	27	0	0	0	27	796
	" Cole	322	26	0	0	0	26	646
	" DeWolf	339	27	0	0	0	27	777
	120	384	0	14	0	0	14	476
	" Taylor	629	3	21	0	0	24	538
	" Dyhrm	275	27	0	0	0	27	823
	832	880	28	0	0	0	28	890
	" Jackson	83	27	0	0	0	27	745
	" Wright	341	26	0	0	0	26	780
	128	47	3	19	4	9	35	1012
	" Schoenberg	12	0	3	28	0	31	1378
	" Roundy	465	6	22	3	1	32	
	318	304	0	3	9	4	16	
	862	774	0	9	1	0	10	
	132	1018	13	2	4	1	20	614
June 11th 1905	" O'Brien	384	27	0	0	0	27	732
	116	209	0	2	0	1	3	
	" Kohler	74	30	0	0	0	30	879
	" Riddle	12	27	0	0	0	27	810
	" C Smith	267	0	16	10	2	28	1020
	" Moore	465	27	0	0	0	27	784
	" Holmes	864	27	0	0	0	27	810
	" Marston	313	27	0	0	0	27	810
	" McNichols	341	27	0	0	0	27	810
	178	2454	0	16	8	15	39	1150
	" Downey	304	28	0	0	0	28	840
	318	276	0	8	0	0	8	
	" Lloyd	131	22	0	8	0	30	1017
	862	710	0	9	3	0	12	
	862	774	0	9	2	0	11	
	318	46	0	6	26	0	32	1198
	" Taylor	306	6	9	4	3	22	708
	" Holmes	16	1	10	14	0	25	1018
	" Fletcham	331	4	20	4	3	31	994
	" Schoenberg	322	23	2	2	2	29	873
	" Roundy	914	9	7	0	0	16	496
	" W Downey	263	26	0	0	1	27	815
	" Weitholm	275	11	1	7	4	23	105
	116	880	0	1	3	2	6	
	132	339	18	0	7	0	25	843
	120	284	0	27	0	0	27	940

June 1905 – Cont'd

26298

Date	Train No	Engine No.	No Cars Steel	No cars Frame & Wood Ext.	No cars Box Ext.	No Cars mty.	Total No Cars	Total Tonnage
June 12th 1905	178	47	0	19	3	19	41	1013
" 13th "	802	710	0	6	0	1	7	
	Eng Sheehan	683	0	3	5	21	29	1213
	" Strauss	1309	0	0	13	0	13	771
	" Jayne	766	0	5	12	3	20	740
	" Hahn	82	0	0	19	39	58	1360
	178	254	6	22	0	2	30	1000
	" C Smith	301	27	0	0	0	27	810
	" Johnston	804	0	0	32	0	32	1449
	116	209	0	1	1	3	5	
	132	267	17	0	6	0	23	834
	" J Donnelly	341	0	0	31	0	31	1417
	120	866	0	9	5	3	17	599
	" Barber	1010	0	0	17	0	17	774
	" Fleming	1142	1	20	7	15	43	1125
	" Wright	301	0	1	21	86	48	1447
June 14th 1905	802	1744	0	9	0	1	10	
	318	304	0	7	14	0	21	834
	170	263	1	19	2	0	22	697
	" Fowler	384	0	19	0	0	19	602
	132	880	7	0	22	0	29	1219
	" Kohler	919	0	8	21	0	29	1705
	176	465	0	22	0	0	22	764
	178	47	0	23	1	6	30	884
	" McNichols	333	0	0	33	1	34	1748
	" Wachter	270	0	3	19	26	48	1262
	" Draper	40	27	0	0	0	27	788
June 15th 1905	318	860	0	10	6	3	19	604
	" Barber	16	28	0	0	0	28	780
	188	870	3	17	1	8	29	869
	" Jackson	209	0	3	0	3	6	
	" Wright	331	0	22	0	0	22	844
	" Cagle	254	0	17	2	11	30	833
	" O'Brien	1300	19	0	0	0	19	570
	" W Donnelly	268	26	0	0	0	26	780
	" Pierce	267	27	0	0	0	27	749
	" Jayne	266	26	0	0	0	26	780
	" Kahn	265	24	0	0	0	24	679
	" Woodward	884	27	0	0	0	27	810
	" Nichton	331	26	0	0	0	26	780
	" Holmes	46	28	0	0	0	28	840
	" White	272	26	0	0	0	26	780
	" Danley	301	26	0	0	0	26	780
	" Johnston	40	27	0	0	0	27	810
	" Westholm	206	29	0	0	0	29	870
	" Draper	86	25	0	0	0	25	740
	" Riddle	389	28	0	0	0	28	840

June 1902 – (Cont)

2629

Date	Crew No.	Eng. No.	No cars stock	No cars Foreign Merchandise	No cars Empty	No mail cars	Total No Cars	Total Tonnage
June 30th	Cf Robertson	341	24	0	0	0	24	730
	" Hulse	77	25	0	0	0	25	704
	" Hill	82	25	0	0	0	25	760
	" Dr Hart	270	25	0	0	0	25	681
	" Bawley	387	25	0	0	0	25	760
	" Moore	302	21	0	0	0	21	630

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April 1905

26296

Date	Train Iro	Engine No	No Cars Stock	No Cars Former Periods	No Cars Dead Fr	No Empty Cars	Total No Cars	Total Tonnage
Apr 1 1905	Ex Pierce	77	8	0	19	7	34	1262
"	" Holmes 132	267	15	6	11	6	38	1204
"	" Bowley	34	0	1	11	33	45	1024
"	" Bigelow 862	724	0	8	0	0	8	
"	" Young	131	0	0	32	0	32	1540
"	" Marsden	1015	0	0	13	26	39	887
"	" Ketchum	206	0	2	33	0	35	1590
"	" H Smith	82	0	0	34	0	34	1522
"	" Morris	272	0	5	31	3	39	1496
"	" O'Brien 318	275	0	4	1	0	10	
"	" E Smith	276	0	0	32	0	32	1056
"	" H Hill	339	0	2	28	16	46	1652
"	" Ingham	331	0	0	34	0	34	1609
"	" J Berry	315	0	0	34	0	34	1646
"	" H Pierce 128	254	0	27	9	5	41	1181
"	" Scully 116	872	0	2	6	6	14	
"	" De Wolf	784	7	20	9	0	36	1322
"	" Fowler	871	0	22	12	0	34	1203
Apr 2 1905	" Taylor	47	0	28	5	2	35	1096
"	" Rollins	263	3	23	2	1	29	884
"	" Jackson	260	7	12	11	3	33	1177
"	" Lloyd	683	35	0	0	0	35	1013
"	" Greenaway	87	35	0	0	0	35	1050
"	" Grimes	322	34	0	0	0	34	1020
"	" Cornwell	880	35	0	0	0	35	1050
"	" M Nichols	766	36	0	0	0	36	1080
"	" Cassidy	206	33	0	0	0	33	980
"	" Koehler	264	33	0	0	0	33	990
"	" Hahn	242	35	0	0	0	35	964
"	" Fenning	83	35	0	0	0	35	1012
"	" Jackson	315	31	0	0	0	31	930
"	" Moore	919	31	0	0	0	31	1110
"	" Riddle	1126	36	0	0	0	36	1080
"	" Jayne	46	11	1	0	2	14	
"	" Draper	314	32	0	0	0	32	996
"	" Ingerston	16	36	0	0	0	36	1080
"	" Scharenberg	313	35	0	0	0	35	1050
"	" Rosekrans 318	74	0	9	16	1	26	946
"	" Cassidy	302	0	0	36	0	36	1603
"	" C Smith	310	0	0	27	14	41	1476
Apr 3 1905	" Willmund	428	10	0	22	1	33	1294
"	" E Smith 183	871	0	13	13	10	36	1269
"	" Romady	284	3	14	15	0	32	1279
"	" Ingham	77	29	0	0	0	29	710
"	" Benton	331	0	0	34	0	34	1656
"	" Sheehan	1137	0	0	31	2	43	1575
"	862	710	0	10	2	0	12	

Date	Train No	Eng No	No Cars Rec'd	No Cars Loaded	No Cars Empty	No Empty Cars	Total No Cars	Total Tonnage of Train
Apr 3 1905	Reburn	706	0	3	35	2	40	1646
	Hill	334	0	0	32	10	42	1604
	Cone	767	0	0	34	0	34	1596
	318	679	0	8	6	2	16	490
	R Dennis	272	0	0	33	17	50	1600
	Thurston	1015	0	0	20	0	20	905
	Barber	275	0	0	34	0	34	1557
	Hill	1113	0	0	21	0	21	710
	Verger	872	0	0	0	5	5	
	Purdue	234	0	5	11	29	45	998
	Butler	1075	6	4	7	2	19	709
Apr 4 1905	126	760	0	16	22	1	34	1151
	R Scully	46	1	0	2	1	4	
	" McCarey	1115	14	13	0	0	27	875
	128	47	3	13	17	4	37	1213
	R Hennicky	315	33	0	0	0	33	990
	132	880	34	0	0	0	34	1020
	R Smith	683	30	0	0	0	30	890
	" Harenburg	242	28	1	0	0	29	876
	" Murphy	131	0	1	23	29	53	1347
	318	74	0	4	11	11	26	726
	" Hogdworth	313	0	0	34	0	34	1504
	" Johnston	878	0	0	34	0	34	1549
	1862	724	0	9	3	0	12	
	R Smith	1113	6	6	17	2	31	1089
	Fowler	263	1	14	21	0	36	1386
	Ketchen	276	0	0	34	0	34	1536
Apr 5 1905	Hazel	784	0	18	15	1	34	1202
	Jackson	331	32	0	0	0	32	944
	132	267	36	0	0	0	36	1080
	R Cassidy	322	31	0	4	0	35	790
	" McNichols	87	0	0	34	0	34	1581
	128	254	0	20	12	7	39	1259
	R Moore	919	0	0	15	1	16	609
	" Hahn	83	0	0	34	0	34	1429
	Fish	871	0	18	10	0	28	1087
	Lindemeier	34	0	3	30	12	45	1595
	Marsden	1015	0	0	19	0	19	904
	862	710	0	9	0	0	9	
	R Isaac	310	0	1	16	30	47	907
	Watterud	16	5	1	13	4	23	775
	Hemming	82	12	0	12	1	25	924
	116	872	0	1	0	2	3	
	318	264	0	4	11	7	22	659
Apr 6 1905	R Bowling	272	0	5	27	4	36	1[illegible]
	116	46	0	1	0	4	5	
	R Kennedy	683	2	24	8	3	37	1270

Date	Train No	Engine No	No Cars Stock	No Cars Loaded	No Cars Dead	No Empty Cars	Total No Cars	Total Tonnage of Train
Apr 6 1905	318	629	0	3	4	0	7	
	867	734	0	6	0	0	6	
	Ex Riddle	706	4	0	17	0	21	922
	" Rollins	77	0	0	34	0	34	1603
	" Grimes	767	0	0	21	20	41	955
	132	880	26	0	0	0	26	780
	Ex Berglund	313	21	4	8	0	33	1119
	" W Smith	131	36	0	0	0	36	1080
	178	47	0	35	3	3	41	1309
Apr 7 1905	132	267	29	0	0	0	29	870
	Ex Ward	263	0	17	8	0	25	1025
	116	872	0	0	10	2	12	
	Ex Dalwolf	16	2	7	21	0	30	1184
	" Fowler	872	3	19	7	5	34	1126
	" Hemming	242	34	0	0	0	34	982
	" W Smith	276	0	0	33	0	33	1588
	" Sheahan	260	0	0	26	7	53	1623
	" C Smith	339	0	0	34	0	34	1634
	178	254	2	26	8	6	42	1102
	Ex Barber	268	0	0	33	0	33	1476
	318	264	0	9	14	28	51	1175
	Ex Hill	478	0	0	27	0	27	1345
	" Marsden	105	0	0	14	9	23	
	" Ingham	1115	0	0	36	0	36	1534
	862	710	0	8	1	0	9	
	" Butler	34	0	1	19	26	46	1269
Apr 8 1905	" Carey	1015	0	6	15	00	21	625
	" Draper	77	0	25	0	0	25	835
	130	263	2	21	3	11	37	1062
	Ex Young	1303	7	16	2	7	32	1015
	132	880	10	4	10	9	33	965
	178	47	0	20	12	8	40	1370
	Ex Ketchum	315	0	0	33	0	33	1643
	" Pearce	83	0	0	35	0	35	1586
	318	679	0	10	1	1	12	
	Ex Scherenbur	322	0	0	33	0	33	1591
	116	46	0	4	7	2	13	
	Ex Hobler	339	0	0	37	13	50	1715
	" Whitenid	331	0	0	34	0	34	1471
	" Woodsmith	289	0	0	34	0	34	1529
	872	734	0	8	1	4	13	
	Ex Johnston	87	0	0	1	62	63	997
Apr 9 1905	" Dingham	310	34	0	0	0	34	1064
	" Butler	878	35	0	0	0	35	1050
	" Jacksey	1123	35	0	0	0	35	1050
	" W Smith	206	33	0	5	0	38	1040
	" 318	768	0	8	4	7	19	535

Date	Train No	Eng No	No Cars Stock	No Cars Fruit, Canned	No Cars Dead	No Empty Cars	Total No Cars	Total Tonnage of Cars
Apr 11 1905	Ex W Smith	77	33	0	0	0	33	990
	" Jackson	87	13	0	14	11	38	1142
	" Brigham	331	6	1	1	16	24	530
	862	724	0	8	1	1	10	
	Ex H Nichols	260	5	18	7	1	31	1208
	128	254	0	19	16	0	35	1253
	Ex Marsden	1015	0	19	1	0	20	712
Apr 12 1905	116	46	0	4	4	9	17	
	318	679	0	8	14	10	32	
	126	16	1	8	6	26	41	843
	Ex Young	919	35	0	0	0	35	961
	" Hemmingway	206	35	0	0	0	35	1021
	187	880	33	0	0	0	33	990
	Ex E Smyth	313	35	0	0	0	35	915
	" Murphy	363	5	15	2	3	25	732
	" Jordan	242	26	0	0	3	29	826
	862	710	0	8	2	0	10	
	128	47	0	27	8	6	41	1236
Apr 13 1905	862	724	0	9	1	0	10	
	318	34	0	4	8	54	66	1210
	116	872	0	1	2	2	5	
	126	870	2	21	7	0	30	1022
	E Jackson	87	32	2	0	0	34	1030
	132	267	31	0	0	0	31	930
	128	254	3	30	0	11	44	1337
	Ex W Smith	331	15	0	8	0	23	729
	" Bates	315	8	1	2	13	24	573
	" Marsden	1091	23	2	5	0	30	978
Apr 14 1905	" Innis	310	0	0	0	70	70	1190
	" Carey	1091	13	1	8	18	27	703
	862	710	0	9	1	1	11	
	318	272	0	8	10	33	51	1077
	120	871	3	26	0	0	29	977
	Ex Connell	880	32	0	0	0	32	960
	178	47	4	26	10	0	40	1174
	Ex Hemmingway	322	18	5	8	0	31	1077
	116	243	0	1	6	5	12	
	Ex Greenway	784	0	21	6	6	33	1034
	" Chamberlain	82	0	16	6	14	36	1092
Apr 15 1905	116	872	0	0	6	6	12	
	862	724	0	8	0	0	8	
	318	764	0	8	8	53	69	1372
	132	267	9	2	11	8	30	978
	Ex Cole	870	4	23	5	0	32	1157
	" Draper	16	1	15	7	5	28	963
	" Isbae	1091	12	1	11	3	27	906
	128	254	0	22	4	18	44	1101
	120	871	0	26	7	3	36	1157

2630 Q. And it includes the weights of particular cars?
A. Yes sir.

Mr. LYNDE: Just describe that. That classifies——

A. All the empty equipment that we are supposed to handle and it is used in fixing the gross tonnage handled in our trains in making up a train on the tonnage basis. I have ascertained the net tons on those particular trains by deducting the weight of the various classes of cars in these particular trains.

Mr. COWAN:

Q. From what?
A. From the gross tonnage as shown on the report.
Q. That was the method by which it was ascertained?
A. Yes sir.
Q. Were those the only statements you were to furnish?
A. Those are all I have been requested to furnish.

Examination by Mr. LYNDE:

Q. I notice on this statement of the train movements from Clinton covered by the statements which you have produced, that you show certain trains that are numbered and other trains are shown as extras, the great majority of them being extra trains. Now, I want to ask you about these trains that seem to bear regular numbers; for instance, train No. 318 appears almost daily. What train is that?

1796

2630a

On freight trains of over thirty (30) cars, exclusive of the caboose, the practice of double-heading will be discontinued, except in case of storms, engine failures, or to avoid running engines to and from shops, or from one portion of the road to another, or in snow service and when used in such emergencies the tonnage of the train will not be increased beyond the rating of the largest engine.

The Dispatcher will determine rating to be handled when it is not desired that full rating shall be hauled, on account of weather or other unusual conditions.

In making out way-bills, Agents will insert the *Gross Weight in Tons* (car and contents) of each car load shipment on the way-bill. Do not show fractions of tons; less than 1,000 pounds to be dropped; 1,000 pounds or over to be counted one ton.

When moving Company material, such as bridge outfit, scrap ties, etc., under special instructions without way-bills, Conductors and Agents will make careful estimate of the weight of contents.

Engines unable to haul the above trains on account of poor condition will be bulletined in the various yards and round-houses, stating what reductions will be made for their trains.

Yardmasters will at all times make up trains in accordance with the above instructions.

ESTIMATED WEIGHTS OF EMPTY CARS.

	TONS		TONS
Flats	12	Furniture cars (38 and 40 feet)	17
Gondolas, less than 60,000 Capacity	14	Furniture cars (46 and 50 feet)	20
" 60,000 Capacity and over	15	Sleeper	57
Common stock cars	13	Buffet	55
Street's stable stock cars	18	Chair	43
C. & N.-W. special stock cars	18	Diner	52
Box cars (28 and 31 feet)	13	Parlor	52
Box cars (33 and 34 feet)	17	Coaches (first class)	34
Refrigerators	21	Coaches (second class)	24
Box beer cars	18	Officers'	41
Box ice cars	19	Comb. passenger, baggage and mail	32
Tank Line cars	16	Comb. passenger and baggage	32
Rogers Ballast cars	15	Baggage	32
Ore cars	14	Postal	34
Cabooses, 4-wheel	17	Milk	23
Cabooses, 8-wheel	19	Horse car, C. & N.-W. (60 feet)	17
Stockmen's cabooses	22		

MAXIMUM WIDTH AND HEIGHT OF LOADED CARS THAT WILL PASS IN SAFETY OVER THE GALENA DIVISION.

FOR POINTS BETWEEN	HEIGHT ABOVE TOP OF RAIL. 9 ft. Wide.	10 ft. Wide.	11 ft. Wide.	LIMITING HEIGHT.
	Ft. In.	Ft. In.	Ft. In.	
State St. and Wells St. Depot	15-0	15-0	15-0	Clark St. Viaduct.
Wells St. Depot and Oakley Ave.	15-6	15-6	15-6	Halsted St. "
Oakley Ave. and West Chicago	15-6	15-6	15-6	Western Ave. "
West Chicago and Geneva	18-9	18-9	18-9	Highway, Geneva.
Geneva and DeKalb	16-9	16-9	16-9	I. I. & M. Crossing, east of DeKalb.
DeKalb and Clinton	18-6	17-6	17-0	Mississippi River Br.
South Branch	15-3	15-3	15-3	Halsted St. Viaduct.
West Chicago and Freeport	16-3	16-3	16-3	Overhead highway, E. Rockford.
Elgin and Genoa Jct.	16-3	16-3	16-3	Wis. Div. Crossing, Crystal Lake.
St. Charles and Aurora				No obstruction.
Belvidere and Spring Valley	18-6	18-6	18-6	C. B. & Q. Crossing, south of LaSalle Jct.
Nelson and Peoria	18-0	18-0	18-0	A., T. & S. F. Crossing.

Trainmen and Yardmen will observe the above limitations before moving cars and assure themselves that same will conform thereto.

Betts Ex no —
see trans ff 2629. 2630

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND NOT FROM WAY-BILLS. 2630B

	INITIALS	CAR NO.	LOADED	EMPTY	OFFICE CHECK CAR NO.	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR MILEAGE	NO. OF CAR & CONTENTS (IN TONS)	TO BE LEFT BLANK TON MILES
1	FGE	16842				183	550	180	5	Fruit	136	36	
2	OOGo	871				185	22		22	Meat	127	32	
3	NCX	9396				185	–		–	–	–	32	
4	CFX	10994				183	0		5	Fruit	135	35	
5	–	19210										38	
6	FGE	14697										35	
7	CFX	19412										34	
8	FGE	14750										38	
9	AEFE	20767										35	
10	CFX	10432										35	
11	FGE	21313										38	
12	CFX	10823					4					35	
13	–	19840								Salmon		41	
14	FGE	21367								–		42	
15	UPac	67317								Fruit		31	
16	CnW	64692								Salmon		32	
17	CB	83770								Canon		32	
18	UP	68074								Fruit		31	
19	CnW	9310								Ord Fruit		28	
20	BnOFW	15872								Flour		32	
21	SP	81186								Canon		32	
22	CnW	78659								Fruit		33	
23	–	7096								Salmon		37	
24	UPac	68166								Ed Fruit		31	
25	CnW	18223				1088				Flour		32	
26	CBQ	22134				283				Hay		24	
27	CnW	6293				297	10			Shelled		45	
28	–	8793				–	–			Apricots		45	
29	–	92821				–	–			Fruit		45	
30	–			42055		127	X					17	
31	CBQ	23196				31	22	31	22	Middle	17	37	
32	CnW	79816				–	18		18	Flour	19	49	
33	FGE	1244				–	16		16	Hops	22	38	
34	CBQ	18773				–	14		4	Flour	23	51	
35	–	22418				–	–		–	–	–	46	
36	Fget	257				22	18	21	18	Flour	2	40	
37	CnW	64485					–		–	–	–	50	
38	–	16979					5		5	Canned	7	33	
39	–			70494						X		17	
40	–			34241						X		17	
41	–			68440						X		17	
42	–			75266						X		17	
43	–			68935						X		18	
44	–			74668						X		17	
45	–			7512						X		17	
46	–			82174						X		17	
47	MO			30094						X		17	
48	Gn			32408						X		17	
49	UP-O	26133					57			Hardware		27	
50	BnO			40636			4			X		18	
51	CnW	55704					–			Hardware		25	
52	–	34672					–			Canned		25	
53													
54													
55													
56													
57													
58													
59													

× 470 Tons Fruit out Clinton

Total Tonnage 1649

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

C., St. P., M. & O. cars should be reported as such and not "St."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 957. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 957 you will also report them on this Blank, Form 949.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or leave train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 30,000 lbs., and contains 22,460 lbs. of freight, it should be reported as 25 Tons, because it weighs nearer 25 Tons than 22 Tons. If the car weighs 25,000 lbs. and contains 41,629 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons; if 23,000 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

949 26306

Chicago & North Western R'y Co.

Coast DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 126 GOING East

Left Clinton Station at 7 45 a M

Oct 3 1904

(Name of station must be written in full.)

Arrived at W Ave 4 10 P M

Oct 3 1904

W R De Wolf Conductor.

L Christenson Brakeman.

R Mullen Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
2062	100	5	135
22 tons			

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	Miles	ENGINEER	Test Car Used
465	100	5	135	Clinton	

Report ALL Engines used en route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND ENTERED FROM WAY-BILLS. 2630

	INITIALS	CAR NUMBERS		OFFICE CIPHER FOLIOS	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR MILE AGE	TONS TO BE CHARGED	TO BE LEFT BLANK
		London	Empty									TON MILES
1	G.N.W	18840			120	38	100	32	Meat	103	33	
2		20441			131	7		2	Horses	135	81	
3		19437			—	4		4	—			34
4		39947			147	7		7	—			30
5		39876			—	—		—	—			30
6		39873			—	—		—	—			30
7		7213			131	—		—	Cattle			30
8		3149			—	—		—	—			30
9		19878			185	1		5	Meat			30
10		19960			120	—		—	Meat			33
11		21398			127	—		—	Cattle			34
12		39231			131	544		2	Hogs			30
13		3647			—	—		—	—			30
14		21389			—	—		—	—			30
15		42987			—	1		—	Corn			42
16		41858			—	—		—	—			54
17		44178			—	—		—	—			46
18		43584			—	—		—	—			50
19		49216			—	—		—	—			48
20		39214			—	—		—	—			43
21		41 488			—	—		—	—			48
22			9599		178	5		5	X			16
23		93152			—	10		—	Iron			23
24		6889			—	—		—	Wheels			30
25		9886			—	—		—				30
26			60116		—	1		—	X			16
27	[illegible]		1961		—	4		—	X			12
28	G.N.W		6997		—	31		31	X	108		12
29	G.N.W		45231		—	—		—	X	—		12
30			4623		—	—		—	X	—		12
31			43886		—	—		—	X	—		12
32			11019		—	—		—	X	—		12
33			49067		—	—		—	X	—		12
34												
35												
36												

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 907. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 907 you will also report them on this Blank, Form 950.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 22,480 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 22,000 lbs. and contains 41 020 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons; if 23,500 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

950 2630C

Chicago & North Western R'y Co.

Cowden DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 132 GOING East

Left Clinton Station at 6:05 P.M.
April 8th 1905
(Hours of month must be written)

Arrived at Calf Ave at 6:15 A.M.
April 9th 1905
(Hours of month must be written)

Chas Cornwell Conductor.
H E Bassett Brakeman.
E W Dixon Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
2083	100	5	135

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILEAGE	ENGINEER	Time Out Used
880	100	5	135	M Murray	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND NOT FROM WAY-BILLS. 3630 d

	INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	OFFICE FROM WHICH CLEARED	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR MILEAGE	TONS OF FREIGHT
1	GRY	3853			185	3131	102	56	Meat	39	35
2	C&NW	15846			120	—		—	—	—	35
3	—	19826			—	1		5	—	135	35
4	—	20404			—	31		31	—	108	35
5	—	80670			185	72		—	Meat	—	30
6	GRY	3718			—	31		—	—	—	35
7	MStL	13878			116	27		2a	Poultry	176	35
8	C&NW	19634			108	4		2	Hogs	135	30
9	—	18685			—	—			—		30
10	—	21877			—	—			—		30
11	—	19541			113	—			—		30
12	—	7479			131	—			—		30
13	—	3511			—	—			—		30
14	MStL	11870			120	1			Mdse		25
15	C&NW	20865			127	—			—		25
16	—	16400			—	—			—		25
17	GRY	40151			120	—			—		25
18	C&NW	20608			185	4			—		25
19	—	20776			—	1			—		25
20	Erie	61829			—	—			—		25
21	C&NW	61676			—	—			Timber		40
22	GRY	8150			—	4			Meat		35
23	WDan	18440			183	—			Grain		30
24	C&NW	36340			—	—			Wheat		50
25	—	66017			120	534			Corn		50
26	—	38118			—	1			—		45
27	—	196434			160	—			—		45
28	—	42102			—	—			Oats		40
29	—	33758			3109	—			Corn		50
30	—	32816			—	—			—		50
31	—	29374			—	—		47	—	191	45
32	—	6864			—	—		47	—	—	45
33	MDan	7579			3131	534		47	Ltr	—	41
34	GRY	13371			24	2	24	—	Eng Tool	12	30
35											
36											
37											
38											
39											
40											
41											
42											
43											
44											
45											
46											
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49											
50											
51											
52											
53											
54											
55											
56											
57											
58											
59											
60											

X 638 Tons First out Clinton

X Total Tonnage 1291

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 957. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 957 you will also report them on this Blank, Form 950.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 22,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 22,000 lbs. and contains 41,020 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,600 lbs., it should be reported as weighing 11 Tons, if 25,500 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

950 2630d

Chicago & North Western R'y Co.

Iowa DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 170 GOING East

Left Clinton Station at 2 05 PM

Jan 1st 1905
(Name of month must be written)

Arrived at Calf Ave at 11 40 PM

Jan 1st 1905
(Name of month must be written)

C Layne Conductor

P R Roseliff Brakeman

C Partridge Brakeman

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
1786	100	5	135

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILES	ENGINEER	Time on Road
16	100	5	135	T Hendricks	

Report ALL Engines used en route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND NOT FROM WAY-BILLS. 2634

	INITIALS	CAR NUMBERS Loaded	Empty	OFFICE CODE DESTIN	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR MILE AGE	Weight of Car & Contents in Tons	TO BE LEFT BLANK TON MILES
1	CQ&P	3883			183	3131	100	56	Meat	34	35	
2	"	3349			"	"			"		35	
3	C+NW	15832			170	"			Tobacco		45	
4	"	68370			183	"			Meat	103	35	
5		15852			170	98		32	"	108	35	
6	CQ&P	7793			128	31		31	"	135	35	
7	"	7641			183	1		5	"		35	
8	CQ&P	72542			136	"			"		38	
9	CQ&P	61893			128	"			Poultry		36	
10	M&ST	11265			"	"			Mdse		20	
11	CB&Q	4058			127	2			Corn		45	
12	C+NW	57224			174	"			Hay		30	
13		36488			"	"			Corn		45	
14		44370			"	"			"		46	
15		89076			"	"			"		45	
16		69536			131	"			"		47	
17		74860			"	4			"		42	
18		40502			"	1			Mdse		25	
19		24802			"	"			Poultry		30	
20		A286			178	"			"		30	
21		21296			136	"			Mdse		30	
22		40680			178	"			Lamps		43	
23		5088			"	"			Poultry		42	
24		48332			170	"			Meat		33	
25				291	167	10			Coal		25	
26				488	131	1					35	
27				744	"	"					35	
28				1078	"	"					35	
29	CB&Q M&O	28091			113	4			Hay		30	
30	C+NW	4553			3/16	"	56		Hogs	101	30	
31		6290			3/31	1			Poultry		34	
32		81160			"	"			"		33	
33		38777			"	"			"	55	32	
34		16576			49	"	46		Mdse		30	
35		70652			"	"			Mdse		21	
36		19848			46	"			Mdse 93		21	
37		43670			"	4			" 94		25	
38		70828			"	1			Mdse		30	
39		44598			"	4			"		25	
40		11597			"	1			"		45	
41		39116			42	"			Corn		35	
42	CB&Q M&O	11747			"	"			Dry Goods		25	
43	C+NW	11231			"	4			Mdse		25	
44												
45												
46												

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 867. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 867 you will also report them on this Blank, Form 950.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 23,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 22,000 lbs. and contains 41,020 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons; if 23,500 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. B. CANTILLON,
General Superintendent.

950 2630e

Chicago & North Western R'y Co.

GALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 170 GOING East

Left Elinton Station at 12 30 AM

Jan 8d 1905
(Name of month must be written)

Arrived at Galena Ave at 10 30 AM

Jan 9d 1905
(Name of month must be written)

W P Tang Conductor.

H Tylor Brakeman.

W Coon Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
7096	100	5	135

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILEAGE	ENGINEER	Time Ord Send
384	100	5	135	H Kittel	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

Entered according to Act of Congress in the year 1905, by W. B. CANTILLON, in the office of the Librarian of Congress, at Washington.

1802

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND ENTERED ON THE WAY-BILLS. 4308

	INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	OFFICE CHECK COLUMN	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR MILE AGE	Weight of Car & Contents in Tons	TO BE LEFT BLANK TON MILES
1	U J Z		4088		131	31	100	31	X	188	18	
2	G N W	69840			127	7		5	Hay	135	28	
3	—	74660			—	7			Coal		32	
4	—	4989			—	7			—		30	
5	—	18951			—	—			—		30	
6	—	19275			—	—			—		30	
7	C B Q M & St P	53681			746	7			Corn		38	
8	G N W	79444			740	—			Oats		57	
9		68890			—	—			—		47	
10		73196			—	—			Corn		47	
11		66672			—	—			—		47	
12		62242			—	4			Sugar		55	
13	C B Q	550			—	—			Mdse		30	
14	G N W	12352			100	—			Mdse		30	
15	C B Q M & St P	13748			—	—			—		30	
16	Sup 4	16673			—	—			—		30	
17	G N W	63250			178	—			Hay		27	
18	Ry Co	96			—	1			Mdse		30	
19	C B Q M & St P	18824			—	—			—		38	
20	G N W	20328			—	—			B C		28	
21		20366			—	—			—		30	
22		20122			359	—			F Meat		30	
23		20185			178	—			B C		30	
24		21798			—	—			—		30	
25		21840			—	—			—		30	
26		24432			—	—			—		30	
27		36590			—	—			Hay		27	
28		66822			—	—			—		27	
29		16390			—	—			B C		30	
30		46188			—	—			Mdse		37	
31			8774		100	10			—		18	
32		465			—	—			Mdse		33	
33		11740			—	—			—		35	
34		40698			—	1			Corn		30	
35	U P	68444			—	7			Ly		46	
36	G N W		11149		127	10			X		35	
37	—		704		—	—			—		35	
38	B & O	92089			32	4	31		Mdse	28	30	
39	A T & S F Co	6894			—	—			—		31	
40	C M & St P	64598			38	4			Mdse		30	
41	—	20586			—	—			—		30	
42	—	30142			—	1			—		30	
43	—	19860			—	—			Bags		22	
44	B & O	82385			32	4			—		32	
45	G N W	80328			—	—			Mdse		30	
46	N & W	6667			34	—			Whisky		28	
47	C M & St P	8298			36	—			Mdse		30	
48	G N W	62340			—	—			—		30	
49	A T & S F Co	10085			—	—			—		31	
50	C N W	28610			—	—			Castings		23	
51	—	11486			—	1			Cattle		33	
52	U P D	22177			—	2			—		30	
53	C B Q		1948		—	—			X		36	
54	B & O	68748			—	—			Mdse		30	
55	C N W	61322	/		38	4			Clinton		35	
56	—		16686		31	1			X		15	
57	—	24553			—	—			Mdse		30	
58	M & St L	62147			—	—			Shades		30	
59	C B Q M & St P	16964			—	—			Mdse		30	
60												

X 496 Tons Sent out Clinton

Total Tonnage 1827

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 907. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 907 you will also report them on this Blank, Form 950.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train, report the name.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 22,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 22,000 lbs. and contains 41,800 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons: if 23,500 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

950 2630f

Chicago & North Western R'y Co.

GALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 128 GOING East

Left Clinton Station at 5:45 PM

April 4 1905

(Name of month must be written)

Arrived at Galena Ave at 3:30 PM

April 5 1905

(Name of month must be written)

R. L. Taylor Conductor.

G. F. Hall Brakeman.

C. Partridge Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
1582	100	5	135
		Lon	22

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	DISTANCE	ENGINEER	Time Coal Used
47	100	5	135	J Burns	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

1803

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND ... T FROM WAY-BILLS. 2630g

	INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	OFFICE CHECK COLUMN	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR MILEAGE	Weight in Tons & Hundredths of a Ton	TO BE LEFT BLANK TON MILES
1	C.H.&W.	63637			131	2	100	5	Corn	138	40	
2		93817							Oats		57	
3		79928							—		40	
4		34610							—		40	
5		37304							—		45	
6		94570							—		57	
7		80056							Hay		35	
8		70732							Oats		57	
9		71716							—		42	
10	C.H.&W.	18044			184				Corn		40	
11	C.H.W.	81644			145				—		40	
12	C.H.&X.	79829			171				Wheat		48	
13	C.H.W.	95748			131				Oats		42	
14	—	60528							—		42	
15	C.O.	4616							—		40	
16	C.H.W.	58376							Barley		43	
17	—	67464							Oats		45	
18	C.H.&W.	16744							Barley		42	
19	C.H.W.	96786							—		40	
20		43873							—		42	
21		63129							—		40	
22		6882			178				Corn		51	
23		61787							Hay		27	
24		66917							Wheat		09	
25		35848							Corn		45	
26		63482							—		47	
27		47170							—		37	
28		67404			127				Oats		45	
29		73476			—				Wheat		54	
30	C.&W.	14676			—				Oats		42	
31	C.H.W.	72808			358				Hay		36	
32	C.&J.		12227		38	4	31		X	27	16	
33	C.J.&L.		3158		—				X		14	
34	C.H.&J.		8746		80				X		20	
35	M.C.&L.		25476		76				X		18	
36	C.W.		7480		—				X		20	
37	C.H.&D.	17706			57	10			Trap		30	
38	C.H.W.	6528			88	1			Cowhage		25	
39	C.&J.		1502		74	7			X		21	
40	C.J.&L.		25376		80	5			X		17	
41	C.H.W.	14457			—	10			Elm		30	
42	—	74017			—	—			Hardon		20	
43	—		70844		—	5			X		21	
44	—	68652			—	10			Trap		30	
45	T.H.&J.		1752		87	5			X		20	
46	C.H.&W.	9516			86	4			Bble		25	
47	C.J.&L.		8473		—	5			X		21	
48	C.H.W.	13107			31	10			Wheels		30	
49												
50												
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Report of Delay.

Report the exact time (hours and minutes) your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 967. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 967 you will also report them on this Blank, Form 950.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 23,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 22,000 lbs. and contains 41,020 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 23,000 lbs., it should be reported as weighing 11 Tons; if 25,000 lbs., it should be reported as weighing 13 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

960 26304

Chicago & North Western R'y Co.

GALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 132 GOING East

Left Clinton Station at 7:55 A.M.
Oct 1st 1904
(Name of month must be written)

Arrived at W Ave 8:55 A.M.
Oct 2nd 1904
(Name of month must be written)

Chas Cone Conductor.

Jos Daley Brakeman.

A Brundage Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
7953	100	5	135
			22 Lms

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILEAGE	ENGINEER	Time Not Used
131	100	5	135	M Murray	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and also where each is taken and left, and mileage made by each.

1804

THE NU[illegible]ERS AND INITIALS TO BE TAKEN FROM THE CARS AND [illegible]T FROM WAY-BILLS. 26114

	INITIALS	CAR NUMBERS Loaded	Empty	OFFICE CHECK COLUMN	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR No. & Initials	Wt. in Tons & Hundredths	TO BE LEFT BY AGENT TONS MILES
1	C+NW	21815			276	7	10	5	Forge	131	30	
2			5226		214	5			X		79	
3		38722			291	2			Bales		42	
4		57810			142				Oats		42	
5		20088			1210				—		42	
6		24467			4085				Barley		47	
7		47976			1285				—		45	
8		65950			1452				Oats		50	
9		57566			1443				—		42	
10		36812			1278	4			H.S.Ends		30	
11		74634			180				Forgings		45	
12	C+O		16536		—				X		20	
13	Erie	2000			183				Mdse		35	
14	W.J.	84133			108				—		35	
15	C+NW	74394			—	1			—		30	
16		75474			4527				Hay		35	
17		49605			6609				Hay		28	
18		17778			—				Hay		38	
19	T.O.T.C.	963			183				Rolling		34	
20	T.O.C.	8619			—				Mdse		30	
21	C+NW	31888			301				Potatoes		42	
22		16374			190				Butter		30	
23		21246			207				Mdse		32	
24		76065			127				—		30	
25		20242			—				—		30	
26		21286			—				—		30	
27		24560			—				—		30	
28		16090			350				—		30	
29		24472			131				—		30	
30		69736			109				—		30	
31		78122			4045				Hay		26	
32		24240			183				—		30	
33		43894			—				Flour		20	
34		57358			—				Grain		32	
35		80548			4803				Barley		37	
36		29294			306				Grain		40	
37	L+N.E.	24016			—				—		40	
38	C+NW	19424			Same				Mdse		30	
39	C+N.	3888			84	4	31		—	27	30	
40	N+W	90364			34	—			Grain		30	
41	C+NW	56776			—				—		30	
42	C+NW	36086			87	1			H.S.Ends		30	
43		44040			76	—			Potatoes		35	
44		24615			89	—			Mdse		35	
45		20864			31	—			—		30	
46	C+NW	2468			36	—			—		30	
47	C+NW	43762			—	4			—		30	
48		37412			38	—			Tongues		35	
49		18490			—	—			Wheat		30	
50		72266			—	—			Potatoes		76	
51	Ohio	14116			34	4			Mdse		30	
52	N+W	62776			—	—			—		30	
53	C+NW	29132			32	1			—		30	
54		77338			—	4			Ran		35	
55		84110			—	—			Cones		38	
56		96334			36	—			Mdse		30	
57												
58												
59												
60					X 644 Tons First out Clinton							
										Total Tonnage X	1878	

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 907. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 907 you will also report them on this Blank, Form 990.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 30,000 lbs., and contains 25,450 lbs. of freight, it should be reported as 28 Tons, because it weighs nearer 28 Tons than 27 Tons. If the car weighs 27,000 lbs. and contains 41,020 lbs. of freight, it should be reported as 35 Tons, because it weighs nearer 36 Tons than 34 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons, if 20,500 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTHLON,
General Superintendent.

950 2630h

Chicago & North Western Ry Co.

DAKOTA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 128 GOING East

Left Clinton Station at 5:20 P.M.

Oct 5th 1904

(Name of month must be written)

Arrived at W Ave at 4:35 A.M.

Oct 6th 1904

(Name of month must be written)

C M Layne Conductor.

H P Sutton Brakeman.

Edw McCarvant Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
2078	100	5	135

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILES	ENGINEER	Tons Coal Used
867	100	5	135	W Cole	

Report ALL Engines used en route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

1805

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND NOT FROM WAY-BILLS. 26304

	INITIALS	CAR NO. Loaded	CAR NO. Empty	UPPER DECK COLORS	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LET	CONTENTS	CAR RULE AGE	TO BE LEFT BLANK	TOT MILES
1	C+NW	39367			183	39	109	39	Hay	98	33	
2		3117									34	
3		29139									35	
4		29199									34	
5		7125									34	
6		39207									30	
7		7087									29	
8		39281									30	
9		7163									32	
10		7341									31	
11		7381									29	
12		7281									31	
13	QQZ	7913			4738	7		5	meat	135	35	
14		9017			—	22		22		127	35	
15		8467			—						35	
16		7965			—						35	
17	WTOX	824			183						35	
18	BOFX	844									35	
19	TILX	9154									35	
20		7284									35	
21		7409									35	
22	QQQ	8058									25	
23	SQZ	01145									28	
24	C+NW	84648			131	1		31	Hay	108	25	
25	WOMX	22174			—	—					29	
26	C+NW	80888			—	—					28	
27		76860			—	—					32	
28	WOMX	15116			127	92			Stock		30	
29	C+NW	47734			—	1			Hay		16	
30	TILX		5740		178	31			X		16	
31			3965		—				X		16	
32			3789		131				X		16	
33			1636		128				X		16	
34			4266		—				X		16	
35			5541		4738				X		17	
36	CMO		10986		183			—	X		17	
37	HOIX		4428		—						40	
38	WOMX	13906			6	18	21	18	Elev	21	37	
39	Others	4708			934	—	—	—	Stone	—	43	
40	Del	4366			21	—	—	—	—	—	56	
41	L	4562			21	—	—	—	X	7	15	
42	Kom		4294		22	1	21	5	X		15	
43	—		4484			4			Coupler		28	
44	O+R	15641				—			—		25	
45	Kmt	1448				—			—		35	
46	C+NW	34612							X		17	
47	WOMX		8586			5			X		17	
48	C+NW		29018			—			X		17	
49	WOMX		24238			—			X		17	
50	C+NW		95084			—			X		17	
51	—		95140			—			X		17	
52	GBR	03926				934			Oil		35	
53	C+NW	78522				94			Coal		45	
54	—	22564				131			—		45	
55	—	6227				145			—		45	
56	MKT	42462				934			Flour		30	
57	MKT	42998				—			Coffee		30	
58	C+NW		95760			5			Coal		17	
59	MOJ	7292				183			Steel		30	
60	QQZ		2536			7			X		21	
										Total Tonnage		

622 Tons Set out Clanton

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken to Freight Trains, a special report should be made on Blank, Form 107. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 107 you will also report them on this Blank, Form 610.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train, report the same.

The weight of limited cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 25,450 lbs. of freight, it should be reported as 23 Tons, because it weighs more than 23 Tons than 22 Tons. If the car weighs 25,000 lbs. and contains 41,500 lbs. of freight, it should be reported as 32 Tons, because it weighs more than 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 21,000 lbs., it should be reported as weighing 11 Tons, if 21,500 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. B. CANTILLON,
General Superintendent.

No. 2630

Chicago & North Western R'y Co.

Copy

CALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 176 Engine No. 1376 East

Left Clinton (Name of station) at 7 00 a.m. Jan 3rd 1905

Arrival at Beloit Ave (Name of station) at 5 00 p.m. Jan 3rd 1905

W Deergi Conductor

E E Gaines Brakeman

C N Coates Brakeman

CABOOSE CARS.

CABOOSE NUMBER	TARES AT	LEFT AT	NO. MILES RUN
2106	109	5	135
		22	Tons

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TARES AT	LEFT AT	MILES	ENGINEER	Yard Use Only
12	109	5	135	W Coleman	

Report ALL Engines used en route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS ANT DT FROM WAY-BILLS. 2690

INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	WHOLE NUMBER OF CARS	BILLED FROM	BILLED TO	WHOLE TARES	WHOLE LOADS	CONTENTS	100 LBS.	FRACTIONS	TONS
LO		3696		22	5	21	5		2	17	
"		3130		"	"	"	5		"	17	
"		40180		"	"	"	5		"	17	

(belongs to next preceding log)

1830

Total Tonnage

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, care will please be exercised to give the Initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not as "St. P."

Wherever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 307. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 306 you will also report them on this Blank, Form 710.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly.* When cars are set out of trains on account of being disabled or heavy draft, report the cause.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 35,000 lbs., and contains 27,500 lbs. of freight, it should be reported as 31 Tons, because it weighs nearer 31 Tons than 32 Tons. If the car weighs 27,500 lbs. and contains 41,000 lbs of freight, it should be reported as 34 Tons, because it weighs nearer 34 Tons than 35 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 17,000 lbs., it should be reported as weighing 17 Tons; if 16,500 lbs., it should be reported as weighing 17 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent,

W. B. CANTILLON,
General Superintendent.

960

2630

Chicago & North Western R'y Co.

ILLINOIS DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 170 - 0015 Left Chattanooga at 7 A.M. June 3rd 1905

Arrived at Gale Cars June 3rd 1905 5 10 P.M.

Conductor
Brakeman,
Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
2106	100	5	135

Report ALL Caboose Cars in train in above columns, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

ENGINE NUMBER	TAKEN AT	LEFT AT	MILES	ENGINEER	Helper or Pusher
12	100	5	135	H. Coleman	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and Mileage made by each.

1807

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND ST FROM WAY-BILLS. 26 JY

	INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	ADDITIONAL CARS	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR WILL USE	TIME IN TRANSIT	TO BE LEFT AT	TOO MILES
1	Chas	29755			131		160	7	Coal	IX	3 V		
2		30659							Wood		3 V		
3		16493							Coal		3 V		
4		3607									3 V		
5		9783							Wood		3 V		
6		9733							Coal		3 V		
7		19627									3 V		
8		19598									3 V		
9		38519									3 V		
10		2711									3 V		
11		30711									3 V		
12		671									3 V		
13		3678									3 V		
14		3659									3 V		
15		18357									3 V		
16		9659							Wood		3 V		
17		7747									3 V		
18		7201									3 V		
19		7263									3 V		
20		7369									3 V		
21		4743									3 V		
22		36497							Coal		3 V		
23		48 [illegible]							Wood		3 V		
24		17 [illegible]							Coal		3 V		
25		19618							Wood		3 V		
26		3433									3 V		
27		34487									3 V		
28		19783									3 V		
29		19637									3 V		
30		3961									3 V		
31		19518									3 V		
32		38775									3 V		
33		21369											

997 Tons

X 443 Tons Fort and Clinton

Total Tonnage

2630 b
Jan 1st 1905

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and causes.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C. St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 567. Original to be sent to Car Service Agent, Chicago. Duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 967 you will also report them on this Blank., Form 936.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 22,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 22,000 lbs. and contains 41,620 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons; if 25,000 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

1900

Chicago & North Western R'y Co.

GALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 4 GOING East

Left Clinton Station at 9.30 P.M.
Jan 1st 1905
(Name of month must be written)

Arrived at Yelton at 10.30 A.M.
Jan 2nd 1905
(Name of month must be written)

M. Brigham Conductor.
R. Harrington Brakeman.
J. Stevens Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
210	100	7	140
			22 Tons

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILEAGE	ENGINEER	Tons Coal Used
919	100	56	34	Hall	
336	56	7	105	Cole	
		12			

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

1808

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND T FROM WAY-BILLS. 2630 l

	INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	OFFICE CHECK COLUMN	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	MILEAGE	Tons Contents in Pounds	TO BE LEFT BLANK TON MILES
1	Chur	20511			127	7	100	7	Hogs	135	30	
2		3463							—		30	
3		3768							—		30	
4		86737							Cattle		30	
5		24981							—		30	
6		39716							Hogs		30	
7		10248							—		30	
8		21326							—		30	
9		18913							Cattle		30	
10		1983							Hogs		30	
11		3767							—		30	
12		24795							—		30	
13		20361							—		30	
14		4846							Sheep		30	
15		24773							Cattle		30	
16		39577							Hogs		30	
17		7005							—		30	
18		2737							—		30	
19		20237							Cattle		30	
20		4707							Sheep		30	
21		21686							Sheep		30	
22		3835							Hogs		30	
23		20363							Cattle		30	
24		39983							Hogs		30	
25		24986							—		30	
26		21917							Cattle		30	
27		4463							—		30	
28		15804							Hogs		30	
29		21817							Cattle		30	
30		21726							Hogs		30	
31		38196			31		31		—	27	30	
32		20709			—		—		Cattle	—	30	
33		20693			—		—		Cattle			
34												
35												
36												
37												
38												
39												
40												
41												
42												
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50												
51												
52												
53												
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55												
56												
57												
58												
59												
60												

X 3 loads Iowa Fort and Chinton

X Total Tonnage 990

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

C., St. P., M. & O. cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 957. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 957 you will also report them on this Blank, Form 950.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 22,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 22,000 lbs. and contains 41,629 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons; if 23,500 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

950 2430

Chicago & North Western R'y Co.

CALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 64 GOING East

Left Belvidere Station at 1:30 M

Jan 9 1905
(Name of month must be written)

Arrived at Cal 40 at 7:45 M

Jan 9 1905
(Name of month must be written)

C. Carmell Conductor.

J. Johnson Brakeman.

J. Chamberlain Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
2083	100	5	134

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILEAGE	ENGINEER	Tons Coal Used
787	100	46	80	D Kunz	
683	46	5	54	D Dickson	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND ...T FROM WAY-BILLS. 2630 m

	INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	OFFICE CHECK COLUMN	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR MILEAGE	Weight of Car & Contents in Tons	TO BE LEFT BLANK TON MILES
1	Mather	1721			48 x	7	100	7	Horses	141	30	
2	Cent	4033			1058				Hogs		30	
3		18276			1054				Cattle		30	
4		21279			—						30	
5		3361			1096						30	
6		20829			—						30	
7		4129			1047						30	
8		19219			1046						30	
9		20723			1405						30	
10		7447			—						30	
11		19209			1410						30	
12		3911			—						30	
13		20578			—						30	
14		3803			1260						30	
15		39859									30	
16		20145									30	
17		3769									30	
18		39809									30	
19		4685									30	
20		4578									30	
21		39481									30	
22		97029									30	
23		42269									30	
24		21217									30	
25		21663									30	
26		18917									30	
27		21887									30	
28		21171									30	
29		21487									30	
30		21654									30	
31		6078									30	

X 372 Tons Port and Johnston

X

Total Tonnage 930

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 957. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 957 you will also report them on this Blank, Form 950.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are get out of trains on account of being disabled or heavy train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 27,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 23,000 lbs. and contains 11,620 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,600 lbs., it should be reported as weighing 11 Tons; if 28,500 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off. Also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

950 26.30m

Chicago & North Western R'y Co.

GALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 6 GOING East
Left Clinton Station at 10 P.M.
Oct 2 190 4
(Name of month must be written)
Arrived at Wesley's 6 A.M.
Oct 3 190 4
(Name of month must be written)
W. D. Lloyd Conductor.
H. Barbey Brakeman.
F. S. Roan Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
21047	100	7	141

2 retons

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILEAGE	ENGINEER	Date Out of Shop
14	100	5	135	A. Morrill	
774	5	7	6	A. Leech	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARD AND ... FROM WAY-BILLS. 2638

	INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	OFFICE CHECK COLORS	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR KIND & AGE	REMARKS Weight & Condition of Car	TO BE LOADED TON MILES
1	[illegible]	[illegible]			[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
2		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
3		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
4		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
5		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
6		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
7	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
8	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
9		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
10		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
11		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
12	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
13	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
14		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
15		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
16	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
17	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
18	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
19		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
20	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
21	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
22	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
23		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
24	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
25	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
26	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
27		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
28		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
29		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
30	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
31		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
32		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
33		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
34		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
35	[illegible]	[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
36		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
37		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	
38		[illegible]			[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 857. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 857 you will also report them on this Blank, Form 980.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are put out of trains on account of being disabled or heavy train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 26,000 lbs., and contains 22,400 lbs. of freight, it should be reported as 31 Tons, because it weighs nearer 31 Tons than 32 Tons. If the car weighs 23,800 lbs. and contains 41,200 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons; if 23,500 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

Jan 6 1903 8630m

Chicago & North Western R'y Co.

GALESBURG DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 3 Y GOING East
Left Clinton (Station) at 11 P.M.
January 7th 1903
(Date to be written)
Arrived at Dixon (Station) at 8:05 A.M.
January 7 1903
(Date to be written)
E. B. Patrick Conductor.
W. F. Smith Brakeman.
C. A. Thomas Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
2103	100	7	141

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILEAGE	ENGINEER	Helper or Pusher
880	100	10	133	M. Murphy	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND ...T FROM WAY-BILLS. 26306

Copy

	INITIAL	CAR NUMBERS Loaded	CAR NUMBERS Empty	SCALE CHECK COLUMN	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR RULE AGE	Weight (Gross or Estimated) in Tons	TO BE LEFT BLANK TON MILES
1	CNW	4847			Waconda	7	100	7	Hogs		14 30	
2	Penko	105			—				Cattle		30	
3	CNW	3189			—				—		30	
4	Penko	4314			Bergen				—		30	
5	CNW	6234			Peterson				Hogs		30	
6		21427			Ruthven				Cattle		30	
7		21470			—				—		30	
8		7461			—				—		30	
9		3017			—				Calf Hogs		30	
10		21837			—				Cattle		30	
11		20137			Emerson				—		30	
12		19291			—				—		30	
13		21817			—				—		30	
14		3449			—				Cattle		30	
15		4263			Sutton				Hogs		30	
16		11879			—				Cattle		30	
17		20061			—				Sheep		30	
18		20099			Orangeville				—		30	
19	—	370			—				—		30	
20	Penko	2587			Alden				Hogs		30	
21	CNW	21814			Ryerford				Cattle		30	
22	—	35899			Conrad				—		30	
23	—	4521			—				Cattle		30	
24	—	18803			Eldora				Cattle		30	
25	—	19197			Aurora				—		30	
26	—	42314			—				—		30	
27	—	19813			—				—		30	
28	—	4731			Whitten				Hogs		30	

X 336 Hogs Fort and Clinton

Total Tonnage 940

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 957. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 957 you will also report them on this Blank, Form 950.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 22,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 22,000 lbs. and contains 41,620 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons; if 23,000 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

950 P.M. 2.630

Chicago & North Western R'y Co.

GALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 24 GOING East

Left Clinton Station at 11:00 P.M.

June 11 1905
(Name of month must be written)

Arrived at Gladstone at 8:45 A.M.

June 12 1905
(Name of month must be written)

Jim Powers Conductor.

E. Perry Brakeman.

J. J. Scanlon Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
1979	100	7	142

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILES	ENGINEER	Tons Coal Used
307	100	7	142	J. Bennett	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

Entered according to Act of Congress, in the year 1905, by the Chicago & North Western R'y Co., in the office of the Librarian of Congress, at Washington.

1812

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND ...T FROM WAY-BILLS. 2630

	INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	OFFICE CHECK COLUMN	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR LOADING AGE	Weight (Enter a Contents in Tons)	TO BE LEFT BLANK. TON MILES
1	CRRW	21328			125	1	100	5	Index	135	30	
2	"	42605			122	—			Hardy		30	
3	"	21967			62	7			Little		30	
4	—	18365			131	—			Hoyo		30	
5	—	7663			—	—					35	
6	Brad Co	69942			184	4			Route		35	
7	Pitt	11622			—	—			Second		35	
8	Ark MO	10468			100	—			Index		30	
9	CRRW	6048			120	—			—		30	
10	Pitt		5918		178	—			X		18	
11	CRRW	44998			120	—			Route		30	
12	—	34248			—	1			—		35	
13	—	77974			—	—			Wilcox		37	
14	CRW	14718			136	—			Hinton		41	
15	SAL RW	864			—	—			—		35	
16	CRRW	21357			131	—			Index		30	
17	—	21480			—	—			—		30	
18	—	20470			167	—			—		30	
19	So Pac	37207			184	—			—		46	
20	CRRW	12318			127	—			Flour		44	
21	—	21870			—	—			Index		30	
22	—	20162			100	—			—		25	
23	—	43942			—	—			—		30	
24	—		5278		120	—			X		18	
25	—		8870		—	—			X		18	
26	—		39160		—	—			X		18	
27	—		20142		—	—			X		21	
28	—		19826		—	—			X		21	
29	—	11338			178	7			Hoyt		30	
30	—		21698		168	5			X		21	
31	—		20402		130	—			X		21	
32	—	48305			—	—			Coosada		30	
33	—	29396			—	100			—		30	
34	—		5044		178	—			X		18	
35	—	14531			131	5			Wilcox		30	
36	—	21778			75	100	31		Index	27	22	
37		16278			—	—			—		26	
38	Ark MO	10748			36	—			—		30	
39	CRRW	3-1282			—	4			—		32	
40	—	2-9042			—	1			—		40	
41	—	35846			—	4			—		55	
42	CRJ		13406		38	—			X		16	
43	CRRW	5746			—	2			Index		30	
44	—	63384			—	4			—		30	
45	—	20478			—	—			—		34	
46	Ark MO	12188			37	1			Cooking		40	
47	PRR	10516			—	4			Grounds		35	
48	CRRW	59267			34	—			Cooper		35	
49	PRR	85767			—	1			Mitch		40	
50	PRR	13892			36	—			dow		25	
51	CRRW	20524			34	—			Index		30	
52	—	63612			—	1			—		30	
53	—		19386		31	4			X		21	
54	—	2-1014			32	1			Index		30	
55	—	5-4928			31	2			Hicks		30	
56	CRL	15501			36	2			agr Imple		30	
57												
58												
59												
60												

X 357 tons Fat ent Clanton. X Total Tonnage 1133

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "M. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 867. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 867 you will also report them on this Blank, Form 866.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 22,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 27,000 lbs. and contains 47,520 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons; if 23,000 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

950 26364

Chicago & North Western R'y Co.

GALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 28 GOING East
Left Leighton Station at 6.55 P. M.
Jun 10 1905
(Use figures, Month to be written)
Arrived at Peak Ark at 5.55 A. M.
Jun 11 1905
(Use figures, Month to be written)
J. J. Mully Conductor.
J. E. Croke Brakeman.
M. H. Brunt Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
1693	100	5	135
2092	31	5	27

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILES	ENGINEER	Tons in Train
47	100	5	135	Hoffman	
514	100	46	80	Hola	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

THE NUMBERS AS IALS TO BE TAKEN FROM THE CARS AND NOT FROM WAY-BILLS. 2630g

	INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	OFFICE CHECK CALLED	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	STATUS	CAR LOAD	CAR EMPTY	TO BE LEFT BLANK TON MILES
1	URT	3060			Kansas City	22	100	22	Grain	127	35	
2	—	4796			—	—	—	—	—	—	35	
3	CRIW	49682			307	—	—	—	Resta	—	42	
4	—	—	7964		183	5	—	5	X	135	27	
5	—	—	8080		—	—	—	—	X	—	27	
6	—	—	9110		—	—	—	—	X	—	27	
7	—	46515			127	2	—	—	Wheels	—	30	
8	—	78478			4016	4	—	—	Hay	—	39	
9	—	68935			178	—	—	—	Flour	—	25	
10	—	71176			184	—	—	—	Oysters	—	38	
11	GTT	13431			185	—	—	—	Canning	—	30	
12	MKR	98664			184	—	—	—	Oysters	—	38	
13	—	70464			—	4	—	—	Lumber	—	38	
14	GTT	7938			Kansas City	Joint	—	31	Grain	108	35	
15		3280			—	—	—	—	—	—	35	
16		3336			—	—	—	—	—	—	35	
17		4087			185	—	—	—	—	—	35	
18		3118			—	—	—	—	—	—	35	
19		4058			—	—	—	—	—	—	35	
20		7461			—	—	—	—	—	—	35	
21		3468			—	—	—	—	—	—	35	
22		7467			—	—	—	—	—	—	35	
23		3803			—	—	—	—	—	—	35	
24		3209			—	—	—	—	—	—	35	
25		3516			—	—	—	—	—	—	35	
26		7051			—	—	—	—	—	—	35	
27		3733			—	—	—	—	—	—	35	
28		3476			—	—	—	—	—	—	35	
29		3435			—	—	—	—	—	—	35	
30		3341			—	—	—	—	Hay	—	30	
31	Ohio	98239			—	—	—	—	X	—	26	
32	WRT	—	40100		4012	1	—	—	X	—	18	
33	GTT		6516		183	91	—	—	X	—	27	
34	WRT		40138		162	—	—	—	X	—	27	
35	WRT		40134		183	—	—	—	X	—	18	
36	WRT		9597		—	—	—	—	Hay	—	30	
37	CRIW	92815			199	—	—	—	Stone	—	37	
38	CRIW	54948			229	1	—	—	Staple	—	18	
39	WRT		5318		1013	91	—	—	X	—	18	
40			7346		170	31	—	—	X	—	18	
41			7878		248	—	—	—	X	—	18	
42			3331		223	—	—	—	X	—	18	
43			4277		—	—	—	—	—	—	—	
44	CRIW	21590			18	40	18	5	Smalls	6	25	
45	—	21908			16	5	16	5	—	5	25	

470 Tons Fit out Clinton — Total Tonnage 1334

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 950. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 957 you will also report them on this Blank, Form 959.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled, or heavy trains, report the cause.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 26,000 lbs., and contains 22,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 22,000 lbs. and contains 41,050 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons; if 23,000 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

959 26309

Chicago & North Western R'y Co.

GALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train No. 126 GOING East
Left Clinton Station at 9:00 A. M.
January 2 1905
(Name of month must be written out)
Arrived Dubuque at 6:40 P. M.
January 3 1905
(Name of month must be written out)
W. J. Turnbull, Conductor.
Harry Wilson, Brakeman.
Roy Anderson, Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
2070	100	5	135

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILES	ENGINEER	Dead End Yard
34	100	5	135	James	
275	100	5	-	J. Pringle	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

1814

THE NUMBERS AND INITIALS TO BE TAKEN FROM THE CARS AND NOT FROM WAY-BILLS. 26014

	INITIALS	CAR NUMBERS Loaded	CAR NUMBERS Empty	OFFICE CHECK COLUMN	BILLED FROM	BILLED TO	WHERE TAKEN	WHERE LEFT	CONTENTS	CAR MILEAGE	WEIGHT On & Wheels & Tons	TO BE LEFT BLANK TOT MILES
1	Ladue	77750			100	550	100	76	Model	127	25	
2	—		34178		178	44		44		80	20	
3	—	37368			100	76		76	Model	107	25	
4	Rep Mfg	12064			157	80			coal Dust		25	
5	C & NW	63882			6113	1370			Hay		30	
6	—	68178			6220	3257			Lodge		47	
7	—	432158			6457	3613			Feed		30	
8	—	37466			—	3277			Flour		50	
9	Lake Sup	14304			183	—			Drums		37	
10	Mo Pac	18776			1498	551			Grain		35	
11	C & NW	3476			136	—			Grain		31	
12	—	7596			700	934			Bags		36	
13	—	46334			750	3255			Lodge		40	
14	C & S	78172			350	577			Flour Stock		35	
15	Rock Isl	65118			6107	3025		46	Hay	80	20	4981
16	C & S	117332			57	952	56	76	Model	93	20	
17	C & S		40008		—	76					24	
18	C & NW		12		—	636					20	
19	—				—	1076			Cement		38	
20	Rock	26703			—	550			Fire Brick		32	
21	—	22734			—	565			Brick		45	
22	C & NE	5866			3131	712			Coal		50	
23	St Louis	42496			—	82			—		46	
24	—	5782				641			—		47	
25	—	4760				930					34	
26	Ore	13374				698			Ore		27	
27	Iowa	2746				1028			Coal		56	
28	Dry Cont	6966				62					47	
29	—	2120				934			Whiskey		30	
30	C & NW	48932				76			Grain		25	
31	—	47454				1000			Coal		36	
32	—	62452				1024			—		47	
33	—	63418				713			—		23	
34	Wabash	19502				913			—		27	752
35	C & NW	64184										

+ 213 Tons Frt Out Clinton

Total Tonnage

Report of Delay.

Report the exact time in hours and minutes your train is delayed. State where detention occurs and cause.

REMARKS.

INSTRUCTIONS.

In reporting cars which belong to this Company, you will please be careful to give the initials "C. & N. W." and not "N. W." or "C."

"C., St. P., M. & O." cars should be reported as such and not "O."

Whenever Baggage, Mail or Passenger cars are taken in Freight Trains, a special report should be made on Blank, Form 857. Original to be sent to Car Service Agent, Chicago, duplicate to be sent to Division Master Mechanic.

In addition to reporting Passenger Equipment cars on Form 957 you will also report them on this Blank, Form 950.

Be careful to write the Initials and Numbers plain, and be sure to report them correctly. When cars are set out of trains on account of being disabled or heavy train, report the same.

The weight of loaded cars and contents must be reported in Tons. If the car weighs 20,000 lbs., and contains 22,450 lbs. of freight, it should be reported as 21 Tons, because it weighs nearer 21 Tons than 22 Tons. If the car weighs 22,000 lbs. and contains 41,620 lbs. of freight, it should be reported as 32 Tons, because it weighs nearer 32 Tons than 31 Tons. The stenciled weight of empty cars must also be reported in like manner. For instance, a car is stenciled as weighing 22,000 lbs., it should be reported as weighing 11 Tons; if 23,500 lbs., it should be reported as weighing 12 Tons.

ACCIDENTS.

When accidents occur, causing cars to get off the track, give initials, number and contents of all cars off, also give numbers of such cars left at the wreck. If the contents of any cars are transferred, give the initials and numbers of such cars.

TO WHOM THIS REPORT SHOULD BE SENT.

Original of this report to be sent to Auditor Car Mileage, Chicago, Ill., at the end of each trip, without fail, duplicate to be sent to Division Superintendent.

W. D. CANTILLON,
General Superintendent.

950 2630k

Chicago & North Western R'y Co.

GALENA DIVISION.

FREIGHT CONDUCTOR'S REPORT.

Train 378 GOING East
Left Galena Station at 9 A.M.
Jan 5th 190 5
(Name of month must be written)
Arrived North Yard at 1:40 P.M.
Jan 5th 190 5
(Name of month must be written)
R. F. Rawlings Conductor.
J. Berwolf Brakeman.
F. A. Martin Brakeman.

CABOOSE CARS.

CABOOSE NUMBER	TAKEN AT	LEFT AT	NO. MILES RUN
1710	100	76	107—17

Report ALL Caboose Cars in train in above spaces, extra Caboose Cars as well as the Regular Caboose.

ENGINES.

Engine Number	TAKEN AT	LEFT AT	MILES	ENGINEER	Time Lost Time
40	100	76	107	Goldsmith	

Report ALL Engines used on route, Helpers or Pushers as well as the regular engine, and show where each is taken and left, and mileage made by each.

2631 A. Train No. 318 is what we call our Milwaukee train; that train takes all the time freight and in fact all through loads that we may have at Clinton each 24 hours, for Milwaukee. That stuff comes from Clinton to Milwaukee via Belvidere.

Mr. COWAN:

Q. Not via Chicago?
A. No sir.

Mr. LYNDE:

Q. Belvidere is 40 or 50 miles west of Chicago.
A. It is 75 miles northwest of Chicago.
Q. Is that so? It is further than I thought. Then there is train 132 that appears almost daily.
A. That is our local stock pick-up train that starts from Council Bluffs and, of course, they would take out of there perhaps some time freight and pick up stock en route.
Q. Is it not a fact that that train almost always has with the stock cars a large percentage of dead freight cars?
A. Yes, very frequently. It depends, of course, on what freight there is to pick up but there are only the two days in the week where there is the heavy stock run and yet they handle a great deal of stock.
Q. 122, what is that?
A. That is a local train out of Clinton on the Galena Division.
Q. That is purely a way-freight train?
A. Yes sir.

2632 Q. Picking up at every station between?
A. They take out, of course, a reasonable tonnage out of Clinton. That is not a train into Clinton from the west.
Q. I understand; it is made up there at Clinton?
A. It is made up at Clinton.
Q. 318, what is that?
A. I gave you that.
Q. No. 120?
A. No. 120, that is our time freight train out of Council Bluffs at 11 P. M. daily. That takes meat, and perishable freight and also picks up a little stock.
Q. No. 120 is a train that carries mostly meat, most of the meat?
A. Well, at the present time, I presume it would be almost a standoff between that and train No. 126. I was going to say that train No. 126 is the regularly established meat train that leaves between 1 and 2 P. M. daily and that takes the stuff that is loaded up to 11 A. M. while No. 120 brings out the stuff that is loaded after 6 P. M.
Q. Do both of these trains carry more or less dead freight?
A. Yes sir, they do. No. 126 is light at present.
Q. No. 128, I don't think I asked you about that.
A. That is called the refrigerator train. Its duty is to pick up the butter and eggs in Iowa.

Q. Where does that train start from?
A. That train starts from Boon.
Q. That is a sort of a dairy train?
2633 A. Yes sir. It attends to the connections from the side divisions, takes all their butter and egg shipments and they are consolidated and it brings them to Chicago.

Mr. COWAN:

Q. It takes some stock, don't it?
Mr. LYNDE: These statements would show that it did not.
Q. I think those are all the trains that bear special numbers, that are shown on this list.
A. That would include all of our regular schedule trains. Of course, a full stock train, they are run extra.
Q. What do you say, Mr. Betts, as to the comparative tonnage between the live stock trains, as you have figured it, and the dead freight, which are the heavier?
A. Well, the dead freight trains are very considerably heavier both in gross tonnage and in net revenue tonnage, as shown on those statements.
Q. And these statements that you have here are copies of——
A. Copies of the originals which I have here, and the statement from which is compiled from the originals here.

Mr. LYNDE: That is all.

Mr. COWAN:

Q. The number of loaded cars, however, in trains carrying live stock is more on the average than the number of loaded cars which do not carry live stock. That is true, is it not.
A. Well, I would somewhat question that.
2634 Mr. LYNDE: That would appear on the statement?
A. That would appear on the statement.
Mr. COWAN: Whatever the figures would show.
The WITNESS: Whatever the figures would show. My judgment is that they run a little the other way, but whatever it shows in the statement is correct.

Mr. LYNDE:

Q. You have not marked out, have you—(referring to statement). The first column is the Live Stock Column and the next column is the Time Freight and Perishable, an- then follows a column of Dead Freight. What is this next column?
A. That is empties and here is the gross tonnage in red ink.
Q. In which of those columns will the meat and packing-house products appear?
A. In the Time Freight Column.
Q. And that column there (indicating) does not include all the meat?
A. No sir.
Q. What other commodities are embraced in that?
A. Well, fruit and butter and eggs, and what is called high

class freight. Those are the two principal commodities we handle between Council Bluffs and Chicago in the way of time freight, outside of meat and packing-house products. West bound it would be merchandise and freight of that character.

Mr. COWAN: These trains, as a whole, represent substan-
2635 tially the character of tonnage which makes up the earnings of your company?

A. Yes, I should say they were fairly representative.

Mr. COWAN: Have you a statement in regard to the loss and damage?

Mr. LYNDE: Why, yes, I asked Mr. Richards to meet me and come over, but he had another engagement.

Mr. COWAN: We have a statement to offer in evidence which is the consists of the trains into and out of Creston Iowa, Galesburg, Illinois, and Burlington for 15 days in April, 15 days in October, 1904, and I believe this is April, 1905, with a similar sample of the actual conductors' reports showing the make up of the trains, and an explanatory statement attached which is all obtained by request of Mr. Crosby, and which shows the damage claims paid on live stock, the total number of cars handled and the damage claims paid on packing-house products and dressed meat and the total number of cars handled, which, with the explanation attached, we have agreed to introduce in evidence with the——

Mr. DAWES: The reporter ought to copy that.

The COURT: Right into the record?

Mr. COWAN: Copy all this?

Mr. DAWES: I don't mean the exhibit, but the statement which is really a part of his testimony.

EXHIBITS

NOT

SUITABLE

FOR

MICRO-

FILMING

2636 Mr. COWAN: That is all pinned together and I have stated that the statement becomes a part of his evidence.

Mr. DAWES: You file that as an exhibit, then?

Mr. COWAN: As an exhibit to his evidence.

Mr. DAWES: I don't care how it goes in but this is a part of his testimony.

Mr. COWAN: That will be understood.

We also offer in evidence a part of the testimony of Mr. Gardner, taken before the Interstate Commerce Commission which has been agreed to between Mr. Lynde and myself, with an explanatory statement of Mr Gardner's attached, which is to go in as a portion of the testimony of Mr. Gardner with respect to the matters therein stated. We also have to offer in evidence the Forty Sixth Annual Report of the Chicago & North Western for 1905 and the printed annual reports of the Chicago Burlington & Quincy Railroad Company for the years ending June 30th, 1903, and 1904, and the printed annual report of the Atchison, Topeka & Santa Fe Railroad Company for the fiscal year ending June 30th, 1904.

(The said documents were marked "General Exhibits 10, 11, 12, and 13.")

Mr. COWAN: I asked some of the gentlemen to please furnish a live stock contract. I don't know whether it is here or not.

2636*a* In the United States Circuit Court, Northern District of Illinois.

INTERSTATE COMMERCE COMMISSION, Complainant,

vs.

CHICAGO GREAT WESTERN RAILWAY COMPANY ET AL., Defendants.

In connection with the portions of my testimony which was given before the Interstate Commerce Commission on January 8th, 1904, in the matter of the investigation by said Commission into the increase of grain rates, which have been introduced in evidence by counsel for the Interstate Commerce Commission, and particularly in connection with that portion of said testimony which relates to the loading of cars used in the shipment of grain, I desire to state as further explanation that there is a wide difference between the loading of cars used in the shipment of grain at terminal points, like Chicago or Council Bluffs, and the loading of such cars at way stations, owing to the fact that the shipper of grain at way stations does not, as a rule, have the same quantity of grain to handle as the large elevators at the above named terminal points, and has not command of the same financial means, so that he very frequently ships grain in comparatively small quantities as compared with the heavy shipments from terminal points. As a rule, the shipments from way stations more nearly approximate the minimum loading of the car than otherwise, while in shipments from elevators at Chicago, or other terminal points, the tendency is for the shipper to load the car to its maximum capacity. This will explain the fact that on grain shipments handled on the North Western road from way

2636*b* stations the loading is not heavier than was stated by me in my testimony before the Interstate Commerce Commission.

As to the remaining portions of the testimony so offered, I will merely add by way of further explanation that the movement of grain cars loaded to Chicago, and the westward movement of empties in handling the grain traffic is very similar to the movement of live-stock; and that the additional cost of picking up cars of grain at different stations over the handling of a through loaded train is very similar to the additional cost of picking up cars loaded with live-stock at way stations over that of handling a through train of live-stock.

W. A. GARDNER.

2636*c* Copy of following portions of the Testimony of W. A. Gardner, General Manager of the Chicago & North-Western Railway Company, taken before the Interstate Commerce Commission January 8th, 1904, in the matter of the investigation into increase in grain rates.

"Mr. COWAN: Will you kindly tell the Commission, if you know, what the average loading of your cars hauling grain from that locality is?

Mr. GARDNER: Well, I could not be specific as to that particular locality. The average loading of box cars on the road is about 14 tons.

Com'r PROUTY: Do you refer to grain, or to all commodities?

Mr. GARDNER: All commodities.

Com'r YEOMANS: In box cars?

Mr. GARDNER: Yes sir.

Mr. COWAN: What is your average loading of grain?

Mr. GARDNER: I have never had occasion to go into that. Of course, it would fluctuate with different kinds of grain and different years. We frequently get a load of light weight of oats. There is considerable amount of oats—oats and corn comes to Chicago.

Mr. COWAN: What is considered an average loading of wheat, or if not an average of wheat, tell us all about the loading of grain.

Mr. GARDNER: We insist upon loading every car to its capacity and we check that up to see that it is loaded. Consequently, a fifteen ton box car would probably be loaded with 14 to 14½ tons of grain.

Mr. COWAN: Is it not a fact that a large majority of cars used in the shipment of grain will load 25 or 30 tons?

Mr. GARDNER: No Sir: we have only a few forty ton box cars on our road out of 29,000.

Mr. COWAN: Have you a book of tonnage ratings of your engines?

Mr. GARDNER: We have them printed on the back of our

2636*d* time schedules.

Mr. COWAN: Does that give the number of your engines and their tonnage ratings?

Mr. GARDNER: Yes sir: the classification of engines as to their size and gross tonnage they will pull in a train over certain lines of railroad.

Mr. COWAN: Can you furnish us a book of tonnage ratings?

Mr. GARDNER: I can send you the time cards. We have some fifteen divisions. What I can send you will be a file of the time cards." (pp. 222, 223).

Mr. GARDNER: I appreciate that, and would be glad to give you any suggestions I can. I suggest this, that their basis of rates is

something that will yield a profit under good conditions as well as under poor conditions. With reference to the grain business, if all the cars that come eastbound loaded with grain went westbound with load, we could afford to haul grain pretty cheap and afford to haul westbound traffic pretty cheap; but in my experience with the North-Western Road of twenty-three or twenty-four years, I have yet to see the time when one-half or two-thirds did not have to be hauled empty.

Com'r PROUTY: The testimony in this case is that the empty car movement is westbound.

Mr. GARDNER: Yes, sir, it is and consulting our annual report you will see that from 26 to 28 per cent. of all car mileage of the North-Western Railway is empty car mileage. That is not from choice of course, but from necessity. We are hauling empty cars up into the lumber territory in Wisconsin. After a while the grain traffic will start in and there will be no commercial coal traffic going out, and then we will have to haul empty cars out to bring back. That is the way it works. That has something to do with the fixing of the rate of freight, the rate on grain and other car load commodities. The expense is not just that of hitching a locomotive on at one
2636e end of the train and hauling it to the other end. That is a very small portion of the expense. You have to associate your cars with switch engines, and you have to classify them as to trains that are going to various localities and with reference to different consignees, because when we get them here in Chicago we deliver the grain to forty different places, and the switching, very frequently, of a carload of grain will cost as much, or more, as it does to haul it from Omaha to Chicago; and then we are subject to all the claims for detention. If we have derailments and wrecks and break up perhaps fifteen or twenty carloads of grain. All that goes into the expense.

Com'r PROUTY: What percentage of your receipts from grain traffic do you pay out in the way of damages?

Mr. GARDNER: I cannot answer that. Our records will show that last year we paid out $600,000 for claims arising from or on account of personal injuries. Most of that was chargeable to freight trains, and half as much again for damage to freight. More or less of that was grain. Take the situation in Chicago last winter, when we had several hundred carloads of grain on our tracks here. There was great congestion here and we could not deliver the grain to consignees on other railroads on which their elevators and grain houses were located. The lines would not accept it. Meanwhile, prices of grain went down, and consequently now we are negotiating on claims for damage."

(pp. 239-241).

"Com'r PROUTY: Have you ever made any estimate of handling local and through traffic, like this grain from the Missouri River to Chicago?

Mr. GARDNER: I have not specifically; but I think it is apparent. For instance, if you start a train of 30 cars out of Omaha and you do not have to stop it at all until it gets to Chicago it costs much less than if you have a train starting out with 30 loads which
2636f have to be peddled out along the line and the train compelled to stop at every station and switch cars. It costs much more." (pp. 248, 249).

2636*g* TOMLINSON'S EX. No. 10.

1905.

Forty-sixth Annual Report of the Chicago & North Western Railway Company for the Fiscal Year Ending June 30, 1905.

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2636*h* Forty-sixth Annual Report of the Chicago and North Western Railway Company for the Fiscal Year Ending June 30, 1905.

The results of the operations of the Chicago & North Western Railway Company for the fiscal year ending June 30, 1905, are as follows:

Average number of miles operated, 7,408.13.

Gross Earnings:		
From Passengers	$13,339,713 94	
From Freight	39,292,830 47	
From Express, Mail and Miscellaneous	3,112,730 76	
Total Gross Earnings		$55,745,275 17
Operating Expenses and Taxes:		
Operating Expenses (65 $\frac{49}{100}$ per cent. of Gross Earnings)	$36,459,334 91	
Taxes (3 $\frac{93}{100}$ per cent. of Gross Earnings)	2,189,976 74	
		38,649,311 65
Net Earnings		$17,095,963 52
Other Charges:		
Interest on Bonds and Interest (NOTE.—This is the net amount after making the usual deductions for dividends received on C. St. P. M. & O. Ry. preferred and common stock.)	$7,006,576 36	
Sinking Funds	225,000 00	
		7,231,576 36
		$9,864,387 16
Add Other Income		553,435 00
Net Income, carried forward		$10,417,822 16

2636*i* Net Income, brought forward		$10,417,822 16
Dividends (8% on Preferred Stock and 7% on Common Stock)		5,174,924 00
Surplus Net Income		$5,242,898 16
Less Amount of Expenditures for Construction, Improvements and Permanent Additions to the Property deducted from the Surplus Net Income for the year by authority of the Board of Directors		4,600,000 00
Balance Income for the year		$642,898 16
Balance to Credit of Income Account, June 30, 1904		10,997,282 85
Balance to Credit of Income Account, June 30, 1905		$11,640,181 01

The results as compared with the preceding year are as follows:

Passenger Earnings increased	$312,005 48	
Freight Earnings increased	2,038,291 59	
Express, Mail and Miscellaneous Earnings increased	60,344 24	
Increase in Earnings		$2,410,641 31
Operating Expenses increased	$1,070,030 95	
Taxes increased	352,171 41	
Increase in Operating Expenses and Taxes		1,422,202 36
Increase in Net Earnings		$988,438 95

The increase in Operating Expenses referred to above was distributed as follows:

Increase for Maintenance of Way and Structures	$300,635 37	or	28.10%
Increase for Maintenance of Equipment	909,445 69	or	84.99%
Increase for General Expenses	53,958 91	or	5.04%
	$1,264,039 97	or	118.13%
Less Decrease for Conducting Transportation	194,009 02	or	18.13%
Net Increase in Operating Expenses	$1,070,030 95		

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2636*j* *Freight Traffic.*

The details of Freight Traffic for the year ending June 30, 1905, compared with the preceding year, were as follows:

	1904.	1905.	Increase Amount.	Increase Per cent.
Freight Earnings.....	$37,254,538 88	$39,292,830 47	$2,038,291 59	5.47

	1904.	1905.	Percentage of increase or decrease.
Tons of Freight Carried	28,128,810	31,129,651	10.67 Increase
Tons of Freight Carried One Mile.	4,066,140,935	4,292,448,817	5.57 Increase
Average Earnings Received per Ton	$1.32	$1.26	4.55 Decrease
Average Earnings Received per Ton per Mile..	.92 of a cent	.92 of a cent	
Average Distance Each Ton was Hauled	144.55 miles	137.89 miles	4.61 Decrease
Total Mileage of Freight Trains..	18,106,231	18,017,914	.49 Decrease
Average Number of Tons of Revenue Freight Carried per Train per Mile Run	224.57	238.23	6.08 Increase
Average Number of Tons of Revenue Freight Carried per Loaded Car per Mile Run	13.04	13.26	1.69 Increase
Average Approximate Earnings per Mile Run by Freight Trains.	$2.07	$2.19	5.80 Increase

Maintenance of Way and Structures.

The total Operating Expenses of the Company for the year ending June 30, 1905, were $36,459,334.91; of this amount $7,466,943.51 was for expenditures pertaining to the Maintenance of Way and Structures. Included in these expenditures is the cost of 50,593 tons of steel rails, the greater portion of which was laid in
2636*k* replacement of rails of lighter weight in 420.12 miles of track; also the cost of 2,997,941 new ties.

The expenditures for Maintenance of Way and Structures also include a large portion of the cost of ballasting 7.92 miles of track with crushed stone, 292.55 miles with gravel, and 51.12 miles with cinders and slag; the erection, in place of wooden structures, of 33 new steel bridges on masonry, and 13 on pile supports, aggregating 2,168 feet in length and containing 1,525 tons of bridge metal; and the replacement of other wooden structures with masonry arch and box culverts and cast-iron pipes, the openings being filled with earth. The wooden structures replaced by permanent work aggregate 9,486 feet in length.

The details of the expenditures on account of Maintenance of Way and Structures for the year ending June 30, 1905, compared with the preceding year, were as follows:

Rails Laid in Renewals:	1904.	1905.	Increase or decrease.
New steel rails laid	27,486 tons	34,872 tons	7,386 tons Inc.
Usable rails laid	26,044 "	15,721 "	10,323 " Dec.
Total tons laid	53,530 "	50,593 "	2,937
Ties Laid in Renewals:			
Number	2,333,616	2,997,941	664,325 Inc.
Cost of Rails:			
New steel rails	$776,348 12	$982,271 52	$205,923 40 Inc.
Usable rails	658,981 73	326,954 59	332,027 14 Dec.
	$1,435,329 85	$1,309,226 11	$126,103 74 Dec.
Less Value of old rails and other items	931,626 60	805,511 73	126,114 87 Dec.
Net Charge	$503,703 25	$503,714 38	$11 13 Inc.
Cost of Ties	$989,245 73	$1,354,117 43	$364,871 70 Inc.
Track Labor	2,993,389 23	3,111,284 10	117,894 87 Inc.
Miscellaneous Track Material	677,467 76	548,505 41	128,962 35 Dec.
Total Charges for Roadway and Track, carried forward	$5,163,755 97	$5,517,571 32	$353,815 35 Inc.

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2636*l*–2636*m* GEN EX. 14.

Forty-ninth Annual Report of the Board of Directors of the Chicago, Burlington & Quincy Railroad Company to the Stockholders for the Year Ending June 30, 1903.

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2636*n* Forty-ninth Annual Report.

CHICAGO, *October* 1, 1903.

To the Stockholders of the Chicago, Burlington & Quincy Railroad Company:

The Railroads and properties of your company were leased, taking effect October 1, 1901, to the Chicago, Burlington & Quincy Railway Company, and have since that date been operated by that Company. For purposes of comparing results of operation with previous years, this report is made, as heretofore, by the Railroad Company.

Earnings and Expenses.

The Gross Earnings from operation, including all leased and controlled roads, for the year ended June 30, 1903, have been:

From Freight	$42,782,405.94	
From Passengers	14,136,281.18	
From Mail, Exp. and Miscellaneous	5,719,691.70	
		$62,638,378.82

The Expenses have been :		
Operating Expenses	$38,763,996.67	
Taxes	1,778,476.09	
		40,542,472.76
Income from Operation		$22,095,906.06
Add for—		
Income on Securities owned and other Income and Interest	$268,331.72	
Net receipts of Land Departments	78,208.26	
		346,539.98
Total Income		$22,442,446.04
Charges have been :		
Interest on Bonds	$7,442,941.24	
Rentals	192,173.95	
Sinking Funds	721,757.70	
Other Charges	759,465.00	
		9,116,337.39
Balance		$13,326,108.15

* * * * * * *

26360 1902–3 Compared with 1901–2.

Gross Earnings from Operating in 1902–3	$62,638,378.82
In 1901–2	53,795,245.47
Increase in 1902–3	$8,843,133.35
Operating Expenses and Taxes in 1902–3	$40,542,472.76
In 1901–2	35,682,875.53
Increase in 1902 3	$4,859,597.23
Net Earnings from Operating 1902–3	$22,095,906.06
In 1901–02	18,112,369.94
Increase in 1902–3	$3,983,536.12
Percentage of Operating Expenses, including Taxes, to Gross Earnings, 1903–3	64.72
In 1901–2	66.33
Decrease in 1902–3	1.61
Total Number Passengers carried one mile 1902–3, exclusive of free mileage	678,462,129
In 1901–2	600,136,909
Increase in 1902–3	78,325,220

Gross Earnings from Passengers 1902–3	$14,136,281.18
In 1901–2	12,857,266.86
Increase in 1902–3	$1,279,014.32
Gross Earnings per Passenger per mile 1902–3	$2.08
In 1901–2	2.12
Decrease in 1902–3	$ .04
Miles run by Passenger Trains, 1902–3	15,311,454
In 1901–2	15,299,531
Increase in 1902–3	11,923
Miles run by Passenger Trains per mile of Road Operated in 1902–3	1,749
In 1901–2	1,859
Decrease in 1902–3	110
Total number of tons of Revenue Freight carried one mile in 1902–3	4,931,185,014
In 1901–2	4,001,631,245
Increase in 1902–3	929,553,769
Gross Earnings from Freight, 1902–3	$42,782,405.94
In 1901–2	36,072,079.68
Increase in 1902–3	$6,710,326.26
Gross Earnings per ton per mile, 1902–3	0.868
In 1901–2	0.896
Decrease in 1902–3	0.028
Miles run by Freight Trains in 1902–3	18,545,775
In 1901–2	18,324,905
Increase in 1902–3	220,870
Miles run by Freight Trains per mile of Road operated in 1902–3	2,119
In 1901–2	2,228
Decrease in 1902–3	109

* * * * * * *

2636*p* *General Remarks.*

The length of road operated on June 30, 1903, was 8,324 miles, against 8,124 miles on June 30, 1902.

The average number of miles of road operated in 1902–3 was 8,319 miles, against 8,109 miles reported for 1901–2. The gross earnings per mile of road operated were $7,529.56 in 1902–3, against $6,634.02 in 1901–2. The operating expenses, including taxes, per mile in 1902–3 were $4,873.48, against $4,400.40 in 1901–2. The percentage of operating expenses, including taxes, to gross earnings in 1902–3 was 64.72, against 66.63 per cent. in 1901–2.

The number of tons moved one mile increased $23\frac{23}{100}$ per cent., as compared with 1901–2; and freight earnings increased $18\frac{60}{100}$ per cent. Passengers carried one mile increased $13\frac{5}{100}$ per cent., and passenger earnings increased $9\frac{95}{100}$ per cent. The percentage of operating expenses to gross earnings decreased $1\frac{61}{100}$ per cent.

The total amount at the credit of Sinking Funds on June 30, 1902, was $20,352,290.13. This amount was increased during the year by the sum of $1,345,435.33, of which $721,757.70 was paid directly from the earnings of the year, and the remainder, $623,677.63 was the accumulation of interest on bonds held in the Funds. This increase was used in purchasing $1,276,600 bonds, of which $502,000 were canceled, and $774,600 remain uncanceled in the Sinking Fund investments.

The Burlington & North-Western and Burlington & Western Railways, narrow gauge roads extending from Burlington to Oskaloosa, Iowa, which have heretofore been controlled by your Company through its ownership of their securities, have been consolidated under the name of the Burlington & Western Railway, and during the year changed to standard gauge and leased to your Company. An extension of the Burlington & Western Railway from Oskaloosa to Tracey, Iowa, to connect with your Company's branch from Albia to Des Moines, is now under construction.

2636*q* The Quincy Railroad Bridge Company, which has heretofore been operated by this Company under a lease requiring an annual payment, as rental, of ten per cent. on the capital stock of the Bridge Company, has been acquired by the purchase of 17,477 shares of its capital stock, out of a total issue of 17,500 shares,* payment being made in C., B. & Q. Illinois Division 3½ per cent. bonds of 1949, thus effecting an annual reduction in the rental amounting to three per cent. on the stock of the Bridge Company.

An arrangement has been made by which the C., B. & Q. consolidated mortgage seven per cent. bonds maturing on July 1, 1903, have been extended for two years at four per cent.

For further details relating to the affairs of the Company, reference is made to the report of the General Auditor and following statements.

By order of the Board of Directors.

GEORGE B. HARRIS, *President.*

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*The remaining 23 shares have since been purchased.

2636r GEN. EX. 12.

Fiftieth Annual Report of the Board of Directors of the Chicago, Burlington & Quincy Railroad Company to the Stockholders for the Year Ending June 30, 1904.

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2636s Fiftieth Annual Report.

CHICAGO, *July* 1, 1904.

To the Stockholders of the Chicago, Burlington & Quincy Railroad Company:

The railroads and properties of your company were leased, taking effect October 1, 1901, to the Chicago, Burlington & Quincy Railway Company, and since that date have been operated by that company. For purposes of comparing results of operation with previous years this report is made, as heretofore, by the Railroad Company.

Earnings and Expenses of all Roads Operated and Controlled for Years Ended June 30.

Gross Earnings.

Per cent.	1903.		1904.	Per cent.
68.3	$42,782,405.94	Freight	$44,651,996.76	68.5
22.6	14,136,281.18	Passenger	14,494,572.78	22.2
3.3	2,082,703.33	Mail	2,300,861.45	3.5
1.9	1,198,118.97	Express	1,290,960.77	2.0
3.9	2,438,869.40	Miscellaneous	2,489,800.09	3.8
100.0	$62,638,378.82	Total	$65,228,191.85	100.0
		Operating Expenses.		
28.7	$17,985,963.76	Conducting Transportation	$20,266,480.74	31.1
12.3	7,719,043.98	Maintenance of Equipment	8,376,602.44	12.8
15.0	9,341,728.36	Maintenance of Road and Structures	10,277,274.54	15.7
5.9	3,717,260.57	General Expenses	3,751,935.41	5.8
61.9	$38,763,996.67	Total	$42,672,293.13	65.4
38.1	$23,874,382.15	Net Earnings	$22,555,898.72	34.6
2.8	1,778,476.09	Taxes	1,906,649.46	2.9
35.3	$22,095,906.06	Income from Operation	$20,649,249.26	31.7

1903.		1904.
$22,095,906.06	Income from Operation	$20,649,249.26
	Deduct:	
	Interest paid in excess of Income on Securities owned and other Income and Interest received	204,115.89
	Add:	
346,539.98	Income on Securities owned and other Income and Interest	
$22,442,446.04		$20,445,133.37
	Charges:	
$7,442,941.24	Interest on Bonds	$6,908,499.72
192,173.95	Rentals	
721,757.70	Sinking Funds	721,716.98
759,465.00	Other Charges	
$9,116,337.89	Total Charges	$7,630,216.70
$13,326,108.15	Balance	$12,814,916.67
$227,818.50	Dividends on stock of the Chicago, Burlington & Quincy Railroad Company, not deposited as collateral for Northern Pacific-Great Northern Joint C. B. & Q. Collateral Bonds	$226,667.00
8,606,752.00	Interest for the year on Northern Pacific-Great Northern Joint C. B. & Q. Collateral Bonds at 4 per cent	8,608,082.00
$8,834,570.50	Total	$8,834,749.00
$4,491,537.65	Surplus	$3,980,167.67

During the year the Chicago, Burlington & Quincy Railway Company paid, as rental, dividends at the rate of seven per cent. per annum on the stock of the Chicago, Burlington & Quincy Railroad Company. The dividends upon the stock of the Railroad Company deposited as collateral security for the Northern Pacific-Great Northern Railway Companies' joint C. B. & Q. collateral four per cent. bonds were, for the convenience of all concerned, applied directly to the payment of the interest on these bonds, as shown above.

2636u *Statistics of Freight and Passenger Traffic on All Roads, Operated and Controlled, for Years Ended June 30.*

Description.	1903.	1904.		
Freight Traffic.				
Mileage of Freight Trains..	17,146,860	17,201,899	Increase	55,039
Mileage of Mixed Trains...	1,398,915	1,558,962	"	160,047
Total.....	18,545,775	18,760,861	Increase	215,086
Mileage of Loaded Freight Cars.....	333,686,181	335,391,022	Increase	1,704,841
Mileage of Empty Freight Cars..... .	124,469,924	136,060,252	"	11,590,328
Total Car Mileage...	458,156,105	471,451,274	Increase	13,295,169
Tons of Revenue Freight Carried.....	20,049,276	20,634,024	Increase	584,748
Tons of Company Freight Carried.....	6,150,217	6,634,745	"	484,528
Total....	26,199,493	27,268,769	Increase	1,069,276
Tons of Revenue Freight One Mile..... ...	4,931,185,014	5,207,483,649	Increase	276,298,635
Total Tons One Mile.....	5,685,365,607	6,114,521,072	"	429,155,465
Earnings from Freight Traffic..... ...	$42,782,405.94	$44,651,996.76	"	$1,869,590.82
All Cars Hauled per Freight Train Mile..... .	24.70	25.13	"	0.43
Tons Revenue Freight Hauled per Train.....	265.89	277.57	"	11.68
Tons Revenue Freight Hauled per Loaded Car..	14.78	15.53	"	0.75
Earnings per Freight Train Mile..	$2.31	$2.38	"	$0.07
Earnings per Ton per Mile.	$0.0087	$0.0086	Decrease	$0.0001

2636v *Statistics of Freight and Passenger Traffic*—Continued.

Description.	1903.	1904.		
Passenger Traffic.				
Mileage of Passenger Trains..	13,912,539	13,478,444	Decrease	434,095
Number of Passengers Carried.....	14,100,605	14,098,053	"	2,552
Passengers carried one Mile..	678,462,129	682,352,166	Increase	3,890,037
Earnings of Passenger Trains....	$17,564,428.69	$18,272,694.82	"	$708,266.13
Earnings per Passenger Train Mile	$1.26	$1.36	"	$0.10
Earnings per Passenger Per Mile	$0.0208	$0.0212	"	$0.0004

Total Trains.				
Mileage of Freight and Passenger Trains	32,458,314	32,239,305	Decrease	219,009
Earnings from Freight and Passenger Trains	$60,346,834.63	$62,924,691.58	Increase	$2,577,856.95
Earnings per Train per Mile	$1.86	$1.95	"	$0.09
Expenses per Train per Mile	$1.19	$1.32	"	$0.13
Net Traffic Earnings per Train per Mile	$0.67	$0.63	Decrease	$0.04

* * * * * * *

2636*w* *General Remarks.*

The length of road operated and controlled on June 30, 1904, was 8,821 miles against 8,751 miles on June 30, 1903, and the average for the year 1903-4 was 8,799 miles against an average of 8,693 miles in 1902-3.

The Gross Earnings per mile were $7,413.14 in 1903-4 against $7,205.61 in 1902-3. The Operating Expenses, including Taxes, per mile, in 1903-4 were $5,066.36 against $4,663.81 in 1902-3. The percentage of Operating Expenses, including Taxes, to Gross Earnings, in 1903-4, was 68.34 against 64.72 in 1902-3.

The number of Revenue Tons moved one mile increased 5 60-100 per cent., as compared with 1902-3; and freight earnings increased 4 37-100 per cent. Passengers carried one mile increased 57-100 per cent., and passenger earnings increased 2 53-100 per cent. The percentage of operating expenses to gross earnings increased 3 62-100 per cent.

The total amount at the credit of Sinking Funds on June 30, 1903, was $21,697,725.46. This amount was increased during the year by the sum of $1,408,673.92, of which $721,716.98 was paid directly from the earnings of the year, and the remainder, $686,-956.94, was the accumulation of interest on bonds held in the Funds. This increase was used in purchasing $1,408,000.00 bonds, of which $512,000.00 were canceled and $896,000.00 remain uncanceled in the Sinking Fund investments.

During the year the new line from Oskaloosa to Tracey, Iowa, to connect the old line of the Burlington & Western with the branch from Albia to Des Moines, has been completed. A line from Old Monroe to Mexico, Mo., has been built, connecting with the Chicago & Alton Ry. at the latter point, thereby making a through line between St. Louis and Kansas City.

The lines and property of the Quincy Railroad Bridge Co., of the Iowa & St. Louis Ry. Co., and of the Kansas City & Omaha Ry. Co., which were shown in the last report as Controlled Roads, are now a part of the operated mileage of this company.

For further details relating to the affairs of the Company, refer-

ence is made to the Report of the General Auditor and the following statements.

By order of the Board of Directors.

GEORGE B. HARRIS, *President.*

* * * * * * *

2637 Mr. DAWES: You did not ask me.

Mr. LYNDE: Nor me.

Mr. COWAN: Mr. Tomlinson telephoned to Mr. Crosby and I guess he overlooked it. I want to have in evidence a live stock contract showing the contract upon which the live stock is shipped.

The COURT: All right, we will admit it when we get it.

Mr. COWAN: That is all except Mr. Ryan and the letter of Mr. Stickney. Were you gentlemen through with Mr. Tomlinson?

Mr. LYNDE: No, I wanted to ask him a few questions.

Mr. DAWES: If your Honor please, Judge Mills, when he left, if your Honor will remember, said it would be impossible for him to return and asked to have the testimony of the witnesses who testified in behalf of their commission at the former hearing, a witness whose name is Yapp, introduce- in evidence here. I don't want to be understood as introducing it on my behalf, because I object to it, but I am acting for Judge Mills in that regard.

The COURT: Let the record show that.

Mr. COWAN: And I object to it.

Mr. DAWES: I object to that testimony, but I am doing this as a matter of favor and I speak of it now so that it may not be overlooked.

2638 T. W. TOMLINSON, having been duly sworn as a witness on behalf of the complainant in rebuttal, resumed the stand for examination by Mr. Lynde, and testified as follows:

Q. Your attention was called to some portions of your testimony before the Commission on the hearing of this case and I want to ask you if you will look at that and state whether you did not testify at that time as follows, in addition to the other portions of the testimony that have already been called to your notice. On page 415:

"So far as the Central Freight Association rates are concerned, I made the statement yesterday that their minimum schedule is less than these cattle rates, which it is. Now, I could inundate you with statements"—(that is what you have done here I am afraid)—"showing you that the minimum schedule issued in the Central Freight Association territory is in effect the maximum schedule. It is mis-named, I don't know why they named it that. In fact, the rates in the Central Freight Association territory were raised here about two years ago and you cannot safely compare the rates in that territory with the rates in a vast producing section like Iowa and Missouri or Kansas and Nebraska or Minnesota or North Dakota, because in the first place you have not got the density of live
2639 stock traffic while the other traffic is much more dense and the rates properly, the through rates in Iowa should not be

so much higher than these Central Freight Association rates." Did you so testify?

A. I assume that I did, yes.

Q. In that hearing you appeared not only as counsel or associate counsel, but you were also a witness and took part in the argument of the case; that is true, is it not?

A. Yes.

Q. Certain portions of the record in that case have been offered, showing testimony of certain witnesses in this case. There were other witnesses, were there not, besides yourself and the witnesses whose testimony has been already offered by Mr. Cowan?

A. Yes sir.

Q. Now you spoke of the natural advantages in favor of the slaughterer at the point of origin, in the course of your testimony the other day. You recognize that there are such?

A. Yes.

Q. Well, that gives rise, does it not, to the development of the manufacturing or slaughtering near the source of production?

A. Yes.

Q. The point of origin?

A. Yes.

Q. And that has been going on at Kansas City and Omaha, for the last 20 years practically, has it not?

A. Yes.

2640 Q. And has been developing more or less at these intermediate points in between all that time?

A. Yes.

Q. When did the Kansas City Packing establishments first commence, do you remember, to go into operation?

A. It is shown in the annual report; a good many years ago.

Q. It was quite a number of years ago?

A. Yes.

Q. And from that time down to the present time there has been a tendency towards a decrease in the receipts of cattle at Chicago, from Texas, isn't that true?

A. Yes.

Q. Somewhat commensurate with the development of the packing industries there at Kansas City?

A. Largely.

Q. I think Mr. Buell said that that began some 10 or 12 years ago. There has been a steady decrease from that time down?

A. Well, it probably commenced earlier than that.

Q. Well, who are, generally speaking, the buyers in the Kansas City, Omaha and St. Joe markets?

A. The packers located there.

Q. Anybody else?

A. Feeders and buyers of packers who have not plants at that point.

2641 Q. Well, who are they?

The COURT: Isn't that in the record already by definite proof?

Mr. LYNDE: I beg pardon?

The COURT: That is already in the record.
Mr. LYNDE: I don't think it is fully.
The WITNESS: I could not give you an accurate list.
Q. Do you mean buyers for packers at intermediate points, is that what you mean?
A. I believe that Sinclair & Company and Morrell & Company occasionally buy hogs on the river markets.
Q. Is that what you mean when you say buyers for packers at other points who have no packing establishment there?
A. Yes, and I think Plankington buys occasionally on that market.
Q. Where is their plant?
A. Up at Milwaukee.
Q. That is what you mean when you refer to packers who have no plants at the Missouri river points?
A. Yes, all the packers located there, packers located there, for instance, who may prefer to slaughter at Chicago. For example, S. & S. frequently buy there. Armour and Swift, I think buy there and forward.
Q. Who are, generally speaking the shippers of cattle into Chicago or into these other western markets?
2642 A. Into Chicago from those river markets, there is practically no shipping business of fat cattle by independent shippers.
Q. That is, you mean from those markets alone; but from western points beyond those markets, who are the shippers? They are the producers, are they not, as a rule?
A. Yes.
Q. The men who have raised the cattle and fed them and who bring them into the market?
A. Yes.
Q. Who are the feeders, who are the buyers for feeding purposes?
A. On the river markets?
Q. Yes.
A. People who want the cattle to fatten on the Iowa corn.
Q. They are the farmers in the vicinity?
A. Yes.
Q. Buying cattle and sending them out?
A. Yes.
Q. Is it not true that the great portion of the cattle handled at th- river markets are bought in that way, for feeding, a very large portion of them?
A. A very large portion of the feeder cattle, yes.
Q. Is it more true of Omaha and the northwest points than it is at Kansas City?
A. Kansas City is the largest feeder market.
2643 Q. And Omaha is a large feeder market and Sioux City, also.
A. Yes, large comparatively, but not as large by any means as Kansas City. All the river markets are, in a measure, feeder mar-

kets except possibly St. Joe, and that does not figure as much as a feeder market.

Q. They have been feeder markets for a great number of years?

A. Yes.

Q. These cattle when they are bought by the farmer and shipped out fattened, as a rule, come to Chicago, don't they?

A. It depends where they are purchased and if they are shipped east of the Missouri river, the probabilities are that a very large percentage would come to Chicago or go east.

If shipped back into Kansas or Nebraska, why, I would say that a large proportion would go back into the Missouri river. The only cattle that come here from Kansas and Nebraska are not extremely good cattle.

Q. I think there was one part of your testimony where there seems to have been an error, and I want to call your attention to it so that it might be corrected. It is on page 2359 and is evidently an error. I do not know what the correction should be so I will give you the chance to make it no-. I- don't see-, to have the right preference. Strike that out, please. You spoke in your testimony of there being no proporti-nal rate at Sioux City. What did
2644 you mean, that cattle coming from that point to Chicago move on the balance of the rate?

A. I meant that there was not the same kind of a proportional rate published from Sioux City that is published from Kansas City, St. Joe or Omaha. The cattle move from Sioux City, if they come from west of the river, they would move, of course, on the through rate and as between the two markets it might properly be called the balance of the rate.

Q. Well, that is what it has been called right along so far.

A. It has been called so, yes. But it is hardly properly so called, bec-use they move on the through rate. There is no contradiction distinction really between the through rate and the balance of the rate. There is a through rate on which the shipment moves from the point of origin to Chicago and the proportion accruing to east of the Missouri river may or may not be the balance of the rate.

Mr. COWAN: You had better explain that.

The WITNESS: Well, take Denver and Colorado common points The difference in the rate on cattle to Chicago as compared with the Missouri river, is 16 cents. The rates divide so that the line east of the Missouri river gets about 17½ cents instead of 16 cents, so that therefore, 16 cents, while it is the balance of the rate, it does
2645 not represent what the line east of the Missouri river receives out of the through rate.

Q. It is the balance to the shipper then?

A. It is the balance to the shipper, yes.

Q. But not to the railroad east of the river?

A. Yes.

Mr. LYNDE: Let's see now, hold on. It does represent that balance of the rate, the amount that the road east of Omaha gets for it if the cattle are delivered over to it by the Union Pacific at Omaha,

doesn't it? The portion of the through rate that goes to the road for the haul from the Missouri river to Chicago?

A. But the balance of the rate, that is the difference between the rate on cattle from Union Pacific stations to Omaha and to Chicago is different than the earnings which the line east of the Missouri river receives for performing that service.

In other words, the rate from Laramie, a large shipping point on the Union Pacific, might be and I think is close around 17 cents. That is the difference between the rate to the Missouri river and to Chicago. Now the line east of the Missouri river gets a percentage proportion of the through rate from Laramie to Chicago which, if my memory is correct, is slightly higher than 17 cents.

Q. That is as between it and the Union Pacific?

2646 A. Yes, as between the line east of the Missouri river and the Union Pacific.

Q. Or the lines west of the river, which ever it may be?

A. Yes.

Q. Now, you say that Chicago is the best market for cattle. That is your opinion, isn't it?

A. Yes.

Q. And I infer from what you say that you think it is the only competitive market, is that true?

A. I would not put it quite so broad as that. I would say that there is more competition at Chicago than there is at any of the other markets.

Q. Well, the prices are higher at Chicago markets than at any of the other markets?

A. They are higher than at the markets west of here, yes.

Q. Don't Chicago prices practically control the prices at the other markets west of here?

A. Largely, yes.

Q. If a shipper can get the same price relatively at the western market, then it is to his advantage to sell his cattle at that market, is it not?

A. If he can get the same price.

Q. Relatively, I am saying.

A. Everything taken into consideration, the question of shrinkage, etc., yes.

Q. Is it is to his advantage to avoid the haul to Chicago

2647 and sell in the nearby market, that is true, isn't it?

A. If he can get a better price, yes.

Q. Well, if he got the same price relatively?

A. Well, if you consider everything.

Q. That is what I mean.

A. The prices would not be quite the same if you consider everything and the price is the same there would be no advantage in selling at the river over selling at Chicago if you equalize all the advantages.

Q. Might it not be an advantage to him to avoid, indeed, the extra labor and burden of carrying his cattle for 500 miles?

A. I understood you to consider that in the question "relatively."

Q. Well, possibly, that is considering that one market would be just as favorable to him as another?

A. If all expenses were on a parity, all costs and so forth, and the prices were the same, there would be no advantage in going to either market.

Q. That is practically the fact, isn't it, as the markets stand? If a shipper can sell his stock at a greater advantage at Kansas City or Omaha, he will do it.

A. If he can get a better price at the river relatively, he does so, yes.

Q. And if they are not willing to pay him a fair price in comparison with the Chicago price, he will bring his stuff to Chicago,
2648 will he not?

A. Necessarily he will.

The COURT:

Q. What about this statement that someone made the other day? Is it true that he won't get any higher price for it in Chicago than in Kansas City, if he got away at Kansas City or Omaha or any other Missouri river point and unloaded there?

A. I have known of some instances of that kind.

Q. Is it not claimed to be true generally and isn't that a part of the complaint that they make against your stockholders and particularly against what they call the packers who have a monopoly?

A. It is claimed that on cattle which are—the classes of cattle which the packers buy it is true that when those cattle stop at a river market for sale and the shipper is not satisfied and he forwards them on here, that he does not get enough more to equalize the thing, yes. But, on the export cattle, where there is a little more competition, cattle which the eastern buyers want, why, the shipper is not then at the mercy of the packers, and he can go both to the Missouri river and Chicago.

Mr. LYNDE:

Q. Well, I don't know that I quite understand you. Is it your idea that as a rule, the shipper does get a better price at the Missouri river markets than at Chicago?

A. Well, I think that the receipts from Kansas, in Kansas
2649 City, for example, are much larger than they are at Chicago.

Mr. COWAN:

Q. Do you mean that they get more cents per hundred pounds? Do you mean that they get a better price at the Missouri river?

A. No, no, not actually. I thought you were referring to the relative proposition. No, not in actual amounts in cents per hundred pounds.

Mr. LYNDE: Well, relatively.

A. Well, I have answered the question relatively.

Q. You say that you think they do get more at the Missouri river markets relatively?

A. I think they do, yes.

Q. Well, the maintaining then of those markets is a distinct advantage to the shipper, isn't it?

A. It is a distinct advantage on paper but it is an advantage of which the shipper cannot avail himself except through the instrumentality of the party who buys his cattle and therefore he is at the mercy of the slaughterers or buyers at the nearby market because he is not permitted to go on at a base of rates which puts him on an equality with the packer.

Q. Now if the Chicago market is open to him, as it is—There is nothing to prevent him from bringing his cattle to Chicago, is there?

A. No.

Q. Would he under such a case a- you put, would he have
2650 a better market if he brought his cattle here?

A. He would probably get a higher price for his cattle; he might have, indeed he would have a wider competition but the circumstances are so much against him and the packer has so much the advantage that he is not able to avail himself of the privilege of coming on.

Q. Now is it not a fact that the buyer at the Missouri river market, Kansas City or Omaha, who wants to get his cattle, is compelled to pay him the equivalent of the Chicago price in order to get the cattle there?

A. It is not necessary at all because of the advantage arising out of the low product rates, he can pay the owner of the stock just enough of that advantage to stop his shipment.

Q. Is it not a fact though that he has got to pay him enough of the price at the Chicago market so that relatively he is paying him as much for his cattle as he would get in the Chicago market, in order to prevent him from bringing his cattle on to Chicago?

A. No, I do not think so.

Q. Do you think the shipper who sells his stock at the Missouri river market sells it at a lower price relatively than he would get by bringing them on to Chicago?

A. No sir, I do not mean that.

Q. It is the contrary, if I understand you correctly, it is
2651 the other way?

A. I have gone over that.

Q. I know, but I would like to ask you now, isn't that true, it is the other way?

A. Well, the——

Q. Just answer yes or no?

(Question read.)

A. No sir.

Q. Chicago prices are pretty well published throughout the western country, are they not, from day to day?

A. Yes. Not quite so generally published at the Missouri river prices perhaps, but they are fairly well known and *dessimated*.

Q. Are they not published in every newspaper that is printed

west of Chicago, in this cattle region, day after day, the market reports?

A. No, that is not correct. You take local papers west of the Missouri river and they would not publish as much of the Chicago prices as they do of the Missouri river prices. Perhaps the Denver live stock papers might but the ones at Cheyenne and Rawlins would not.

Q. Well, take it through this Iowa region that we are dealing with, how is it there?

A. Undoubtedly Chicago prices are given wider publication than Missouri river.

Q. You instanced Cedar Rapids as an illustration once or twice in the course of your testimony and you said that, at Cedar Rapids, for instance, they paid an arbitrary price under the Chicago
2652 price. That is what I understood you to say, is that right?

A. In my understanding that is true, yes.

Q. What do you mean by an arbitrary price?

A. I mean that they would pay 20 to 35 cents per hundred pounds under Chicago.

Q. Do they pay less than the relative amount that is required to equalize the price at Cedar Rapids with the price at Chicago, is that your idea?

A. Yes.

Q. So that the shipper by shipping his hogs or cattle on to Chicago would get a better price, would he, relatively?

A. No, not relatively. They pay relatively less.

Q. What?

A. They pay relatively less.

Q. Don't they pay relatively more?

A. No sir.

Q. Do they pay any more or less than the Chicago price, relatively, taking into consideration all of these elements that you refer to?

A. I claim they pay relatively less, taking into consideration all the factors enumerated, and if the shipper is—that the shipper is almost forced, the shipper into Cedar Rapids market, is almost forced to patronize that market simply because of the advantage accruing to the packer.

Q. If the shipper can get relatively more by shipping on
2653 to Chicago, what is there that forces him to send his hogs to Cedar Rapids?

A. There is a lot of factors in that question relatively which the shipper cannot avail of.

Q. We are dealing with what he can avail of.

A. If there is a factor in that relative consideration which he can avail of, and he can get more by coming on to Chicago, why he should come.

Q. If he can get more by coming on to Chicago and paying the additional cost that is involved to him in the movement of his hogs to Chicago than he can get by selling them at Cedar Rapids, is it not a fact that he would send them to Chicago, generally speaking?

A. I would think so.

Q. So that the buyer at Cedar Rapids, in order to get those hogs is compelled in fact to pay the prices which will equalize the price at Cedar Rapids with the price at Chicago. Just answer the question, I don't want to argue.

A. The question is not susceptible of an intelligent answer without an explanation.

Q. Well, that is enough. Now, as a matter of fact, there is no market at Cedar Rapids in the shape of an open market, is there?

A. No sir.

Q. I think it has been—either you said or it was explained by other witnesses that Sinclair & Company, sent out notices as to all the prices that they will pay for hogs and the different companies
2654 do the same. You understand that is the case, do you?

A. I understand that is the case, yes.

Q. So that, the shipper does not bring his hogs to Cedar Rapids in the first instance unless he has made a contract to sell them, isn't that your understanding?

A. I would not be the best authority on that but that would be my general impression.

Q. Well, that is what I mean.

A. That he went there on the theory that he would get a certain price for his hogs.

Q. What is the class of cattle that are mainly shipped from Colorado, are they mainly feeders?

A. There is a great deal of butcher stock, fat steers. No, I would not say they were all feeders.

Q. I did not say "all" I said mainly?

A. Not mainly feeders, but they are not as good a class of cattle as the Iowa cattle.

Q. They don't compare with the Montana cattle, do they, they are not as heavy?

A. No, they are not as heavy.

Q. There are more shippers of stock in Montana, than in Colorado, are there not?

A. You would hardly call it butcher stock in Montana. There are more steers in Montana than in Colorado.

Q. Aren't those large steers in Montana shipped directly to the market for slaughter?

A. Yes.

2655 Q. And the cattle down in Colorado do not belong to that same class as a rule, do they?

A. You could hardly classify them, there is quite a distinct difference, but Colorado is a little different from Texas, a little different in that it has got more fat cattle than Texas would have.

Q. As between the two, Colorado and Montana, Montana cattle are in better shape to go to the market at once than the Colorado cattle, are they not? I mean to be slaughtered on the market?

A. I would be inclined to think there is very little difference because the Colorado cattle are fattened on grass the same as the Montana cattle are. I don't think there is very much of a difference.

Ut is about the same as Wyoming, the cattle range over through in the South and Middle Pass and while a large proportion of them may not be the same in Colorado as Montana, I do not think there is any marked difference.

Q. As to the shipper, shipping cattle from Montana or from Colorado, is it not a fact that it is the through rate from that point that controls and determines whether he will ship to Chicago or not?

A. Largely that, and the facilities at the other markets for slaughtering.

Q. If he has got feeder stock he would send them probably to the feeder market, Kansas City?

2656 A. Very few feeders go from Montana.

Q. Those that go from Montana go for slaughter in the main?

A. Mostly.

Q. The man in Colorado, if he has feeder stock, he would ship them to Kansas City?

A. If he had feeder stock, yes sir.

Q. Wherever he shipped would depend in the main on the through rate from Montana to Colorado?

A. Yes sir.

Q. The natural movement of cattle, you say from west of the Missouri river, if I understood you correctly, is to the Missouri river markets?

A. The natural movement would be east bound, and, for natural reasons——

Q. It goes to those markets rather than to Chicago?

A. For natural reasons, yes.

Q. You said however in that same connection that it was unnatural for cattle to go to Kansas City from Omaha. I think that statement was made by you?

A. That is a mistake, I did not mean that.

Q. It reads that way and I wondered what you did mean.

Mr. COWAN: From Montana.

Mr. LYNDE: Well, let's see now, not at all. I desire to refer to the record to see if I have got it right. (Counsel refers to

2657 record.) You are correct, Mr. Cowan, it was Montana, I am wrong.

Q. Now what is the movement from Montana to Kansas City, in fact?

A. Very slight.

Q. I think you said that in figures, it amounted to something like 114 head for the last year.

A. If I said that it is based upon Mr. Kenyon's exhibit.

Q. A very small number?

A. Yes sir.

Q. So trifling that it practically cannot be considered as a movement at all?

A. Kansas City would not be a natural market for Montana stuff.

Q. I refer to it because you had spoken of it but I see you meant that simply as an illustration of what you would consider an unnatural movement?

A. Yes.

Q. While the natural movement would be direct to—From Montana—To Omaha or Sioux City, is that right?

A. Or St. Paul or Chicago. The natural movement would be east bound towards the point of ultimate consumption via the line of least resistance.

Q. Would it not be east bound towards the nearest point of manufacture for ultimate consumption, rather than towards the point of ultimate consumption in some distant place?

A. I think that is also true. I think I have already stated that. There are several natural advantages of the river
2658 markets to which they are entitled.

Q. Then it is a question as between the slaughterer there and the slaughterer at some other point?

A. No, I don't think it is a question so much between the slaughterer there and the slaughterer at some other point as between the slaughterer at the first point and the shipper.

Q. Now if the shipper can get the same price or a better price at a nearby market than by shipping his cattle further eastward, what inducement is there to him to ship to the east?

A. None at all except that he might get a little wider competition. Bear in mind that the prices paid are dependent upon the prices on which the packer can market his product, and all those prices and all those rates, for example of prices, the shipper is not in a position to avail himself of, because he does not slaughter the product, and the packer can surrender of his advantage just enough to make it profitable for the shipper to stop there and for that reason, added to the natural advantages, the shipper is really, under the present adjustment, restricted to the market nearest him and is barred from the competition to which he is naturally entitled upon an ideal adjustment.

Q. But the packer controls, if I understand you correctly, the nearby market. You say he is the only buyer there.

2659 A. He controls it more largely than he does the Chicago market.

Q. Does he control the Chicago market?

A. No sir, I would not say that he did.

Q. So the Chicago market is an open competitive market?

A. It is an open competitive market, more so than are the other markets. Now that is on fat cattle or hogs ready for the block, for slaughtering.

At Kansas City there is of course, a wide competition on feeders and so also is there at other Missouri river points; perhaps a wider competition on feeders than there is at Chicago, naturally there would be because the Corn Belt is west of Chicago and the feeders originate west of the Missouri river.

Q. Where do the Chicago feeders go as a rule, those that are sold for feeding here in Chicago?

A. Illinois, some in Wisconsin and some in Iowa and Indiana, but largely Illinois.

Q. But the man who ships or sells his hogs at Cedar Rapids, still has the opportunity to send those hogs on to Chicago and get the Chicago price if the packer at Cedar Rapids won't pay him the equivalent, isn't that so?

A. Yes.

Q. You spoke about having made a comparison of rates from certain points on the North Western Road to Chicago. I think
2660 those are exhibits 15 and 16. On this statement you compared the rates from certain points in Iowa with rates from certain points in Wisconsin, the comparison being made to Chicago and on a mileage basis. That is, you apparently have sought to take stations of equivalent distances. Now, is it not a fact, Mr. Tomlinson, that the rates from those stations named in Wisconsin are rates to Milwaukee and that Chicago takes the Milwaukee rate?

A. They——

Q. Isn't that a fact?

A. Not entirely.

Q. Is it not a fact as to the stations that you have named here, in the main?

A. Yes.

Q. So that in order to get the equivalent in mileage you should add about 85 miles to the mileage shown as to the Wisconsin points?

A. No sir, I don't think so.

Q. Should you not add the mileage——

A. I have given the mileage there to Chicago.

Q. You have given the mileage to Chicago and instead therefore of giving the mileage to Chicago, should you not have deducted 85 miles from the mileage given as to each of these Wisconsin points?

A. No.

Q. Isn't that the difference in mileage between Chicago *an* and Milwaukee?

A. With equal justice I would——

Q. Just answer that, isn't that the difference?

2661 A. No, I should not.

Q. Pardon me. That is the difference in mileage between Milwaukee and Chicago, 85 miles?

A. Yes.

Mr. COWAN: That would depend on where it is from.

Mr. LYNDE: That is the difference between Milwaukee and Chicago and I want to have the figure appear in the record.

The WITNESS: It is 87 miles, I think.

Mr. LYNDE: That would be nearer correct, I suppose.

Q. Now, as to these points in Kansas and Nebraska.—I think they are all in Kansas, are they not, that you have listed here.

A. I cannot tell you without looking at the statement.

Q. Well, one statement refers to certain points on the Rock Island and the other statement to certain points on the Union Pacific.

A (Examining statement). Kansas and Colorado.

Q. Well, in each of those cases, is it not true that there are zones running north and south through Kansas and Colorado in which the rates are the same?

A. To all Missouri river markets.

Q. To such markets as you have listed here, I think these are into Kansas City, are they not?

A. There are zones in Kansas where the rates to Kansas City and St. Joe are the same.

2662 Q. Are they not shown on your statement there in that way?

A. No, I give the several rates, the specific rates to Omaha for the C. R. I. & P., and the specific rates for the Union Pacific to Kansas City.

Q. Take the first group. The rates to Omaha, for instance are shown on your statement from Munden, Kansas, a distance of 141 miles, the rate is 14½ cents and that rate seems to prevail down to Phillipsburg, a distance of 243 miles.

A. Yes.

Q. And that means that in that entire zone that general rate of 14½ cents applies?

A. To Omaha, yes.

Q. Isn't that true in your statement on the Union Pacific, to Kansas City, in the main?

A. To Kansas City——

Q. Isn't that a fact?

A. It applies 43 miles.

Q. Well, that is not as much of a zone. Then below the 16½ seems to run from 223 miles down to 303?

A. A distance of 80 miles, yes. The rates from all western Kansas and Nebraska points are not uniformly the same to Omaha, Kansas City and St. Joe. When you get west of the east line of Colorado and Wyoming, they are the same to all Missouri river markets.

Q. West of where, I did not catch that?

A. West of the east line of Colorado and Wyoming. They

2663 are not the same to all Missouri river markets, except the territory up in Montana which I previously referred to.

Q. That is to be explained, is it not, by competitive conditions existing in Kansas and Nebraska and east of that point, or is that the case?

A. No, I don't think it is explained on that theory, because I say they are not the same. You misunderstood me.

About those comparisons to Milwaukee, if you will permit an explanation, on the same reasons the rates from Iowa are the same as to Milwaukee and if you made any deduction to equalize on the Wisconsin rates, you should also make a deduction to equalize on the Iowa rates. No deduction is necessary at all, the rates are made on Chicago.

Q. That is not what we are dealing with here. So far as these

rates here are concerned shown in this list, they are rates to Milwaukee and Chicago gets the benefit of the Milwaukee rate.

A. I would not call them rates to Milwaukee any more than rates to Chicago; the bulk of the stuff comes to Chicago.

Q. At the same rate?

A. Yes, except possibly nearby hogs. Take nearby points to Milwaukee, the rate is much less than it is to Chicago.

Q. I am dealing with those you have listed here.

A. I was trying to explain the general situation.

Q. I do not know what that is, so I would rather confine it to these here.

2664 The COURT: Any other question?

Mr. LYNDE: Just a moment, I am very nearly through. The error that I wanted to call attention to I have now found and it is on page 2390 where you are stating the shipments from the state of Iowa into Chicago, and, as it appears here in the record before me it is said, "During 1904, 19,826 cars."

A. That is wrong, I noticed it.

Q. I do not know what the correct figure is. You had made that statement?

A. What is the year? 119,896. No, that is 1903. 1904, 97,826.

Q. 1904, of course the strike was in existence?

A. Yes.

Mr. LYNDE: I think that is all, your Honor.

Examination by Mr. RANSOM:

Q. Mr. Tomlinson, you are a lawyer, are you not?

A. No sir.

Q. Did you ever study law?

A. I have read a little bit.

Q. Yes, read law. You were one of the attorneys for the Live Stock Exchange in prosecuting this case before the commission?

A. No sir, I am not an attorney. I was their railway representative.

2665 Q. You prosecuted the case before the commission?

A. I assisted Mr. Cowan.

Q. Were you in the employ of the Live Stock Exchange aside from that employment at that time?

A. Yes, I was their railway representative.

Q. Are you in the employ of the Live Stock Exchange now?

A. No sir.

Q. Who is employing you now?

A. The American Stock Growers' Association.

Q. Where are they located?

A. At Denver, Colorado.

Q. Were you ever engaged in the practical operation of a railroad?

A. Yes.

Q. What railroad?

A. The Sioux City & Western, I was superintendent of it.

Q. Did you have the making of rates on that road?
A. Well, it came under my jurisdiction, the General Freight Agent. Yes, I did.
Q. Did you make the rates?
A. I made them in conference with the other lines serving the same territory, yes.
Q. The superintendent of a railroad company don't make the rates, does he?
A. The general freight agent reported to me in that instance.
Q. He reported what rates he made?
A. Reported to me for my approval.
2666 Q. And you approved them formally?
A. Yes.
Q. You don't know what they were based on, do you?
A. The rates made at that time were made equal with the rates of the other lines serving the same territory.
Q. You don't know what basis they were made on, do you, or did you?
A. There is not very much basis for making rates.
Q. You don't know what this man made the rates on, what basis? Can't you answer that yes or no.
A. No, I don't know.
Q. Now then you say that the rates on the proportional adjustment to this 23½ cent live stock rate from the Missouri river to Chicago—that they are not properly adjusted to that rate. Will you tell me what the rate per ton per mile is for the country tributary to Chicago, say for 150 miles from Chicago?
A. The rate per ton per mile?
Q. Yes, on live stock.
A. It is between 1½ and 2 cents.
Q. What is it in Illinois?
A. There are no statistics published, segg*r*egating——
Q. Don't talk about statistics. You say they are not properly adjusted. Can you tell me what is the rate per ton per mile in Illinois from 150 miles from Chicago?
2667 A. On what?
Q. On live stock, that is what this case is about.
A. I can tell you in a minute by figuring it up, I cannot tell you offhand, no.
Q. Never mind figuring it up now. Do you know what the rate per ton per mile is on live stock from 140 miles east of the Missouri river.
A. All rates vary, it is a matter of computation.
Q. Do you know that?
A. No, I do not.
Q. Do you know as a matter of fact that it is very much greater than the rate per ton per mile for the same distance out of Chicago, on all these lines?
A. It——
Q. Don't you know that?
The COURT: Well, answer.

A. The rate per ton per mile from Iowa points into South Omaha on cattle is greater than the rate per ton per mile from Illinois points into Chicago.

Mr. RANSOM:

Q. And from the other points on the other roads outside of Illinois, how is it?

A. It is greater than from Indiana points, it is not greater than from Iowa points to Chicago.

2668 Q. I want you to get back to what I am asking about. Don't you know it to be a fact that the rate per ton per mile on live stock from 140 miles east of the Missouri river into the Missouri river, is very much greater than the rate per ton per mile for a distance of 140 miles west of Chicago, on all these lines into Chicago?

A. Into Chicago?

Q. Yes.

A. No sir, it is not.

Q. Now, will you produce a statement here showing the rate per ton per mile for 140 miles into Iowa from the Missouri river.

A. I cannot get the 140 mile point——

Q. It can be figured out from the statements already in here?

A. You want the rate west of Chicago, that will confine you to Illinois.

Q. On all the lines, yes.

A. If you take——

Q. Don't you know as a matter of fact that there are statements in here now from which you can figure the rate per ton per mile into Chicago for 140 miles west of Chicago and into the Missouri river from 140 miles east of the Missouri river?

A. Yes, there are.

Mr. COWAN: Well, you make your own figures, Mr. Ransom.

The WITNESS: The information is in here and I will figure it up for you.

Mr. RANSOM:

2669 Q. Don't stop now. You have stated now that the rates are not properly adjusted. You say you don't know the rate per ton per mile into Chicago for 140 miles and you don't know the rate per ton per mile into the Missouri river. Now, how do you say that the rates are not properly adjusted, if you don't know what they are.

A. As between the live stock rates entirely?

Q. That is all I am talking about.

A. The live stock rates into Omaha and into St. Paul?

Q. No, into the Missouri river.

A. As compared with the rates into Chicago from Iowa points.

Q. Just read the question to him.

(Pending question read.)

A. The rates from a great portion of the state of Iowa into

Chicago average more than the Iowa distance rates for the same distance. There may be exceptions to that but when you get over 350 or 300 miles under the Iowa schedule, the rates are really paper rates. They are never used because there is no workable distance.

Q. Now you know what I am asking. I asked you for only 140 miles. I didn't say anything about 300 miles. I am confining you to 140 miles west of Chicago and 140 miles east of the Missouri river.

A. I have not especially picked out 140 miles to make any comparison. I have given you the best of my opinion without looking up the records. I can look it up and tell you absolutely in
2670 a minute.

Q. Yes, I know you can.

The COURT: That answers that.

Mr. RANSOM: Yes.

The WITNESS: The mere fact that I don't know the 140 mile rate——

The COURT: He says he cannot answer.

Mr. RANSOM: He can answer this question, your Honor, I think: That covers the zone, don't it, 140 miles, the 23½ cent belt is covered by that, isn't it?

A. Approximately, yes.

Q. Do you claim that the receipts in Chicago of live stock since 1900, have decreased as compared with former years?

A. Since 1900?

Q. Yes.

A. They will average about the same.

Mr. LYNDE:

Q. You made some statement, Mr. Tomlinson, as to the average cost of delivering live stock at the Union Stock Yards in Chicago, which you said you had prepared from the sworn statements of the railroads involved in the $2.00 terminal charge case. Now, did you in that connection consider and examine the testimony of the witnesses, especially Mr. Gardner's testimony on the subsequent hearing in that case or did you make them up from statements
2671 filed on the original hearing in 1902?

A. Made it up from statements filed on the original hearing.

Mr. COWAN:

Q. I just want to ask one question. Is there any such thing as a rate per ton per mile?

A. No, it is a most unfair basis of a comparison and it means nothing.

Mr. DAWES:

Q. Haven't you used it here as a basis of comparison right along?

A. Only to a very slight extent.

Q. Wherever you have used it, it is unfair.

A. I say it does not accurately represent true conditions and I used the comparison simply because the railroads put in some figures on the same basis.

Mr. RANSOM:

Q. How do you arrive at the conclusion that the rates are not properly adjusted?

A. Because relatively they are higher from Iowa points than into South Omaha.

Q. What do you mean by "relatively," relative to what?

A. If you will take the exhibits on file here showing the distance in that Iowa schedule——

Q. What do you mean by "the Iowa schedule?"

A. I mean the schedule published by the Iowa Railroad & Warehouse Commission.

2672 Q. But we are talking about Interstate tariff into the Missouri river. They don't make rates into the Missouri river.

A. They make rates into Council Bluffs.

Q. But they don't make them into the packing house points. Tell me what you mean by "relatively," relative to what?

A. I mean that upon any proper theory where rates advance upon a sensible schedule, that is not proportionately for distance, in other words not what is understood as a per ton per mile schedule, that the rates from Iowa points to Chicago——

Q. I didn't ask you anything about that.

The COURT: Let him answer.

A. (continued). The rates from Iowa points to Chicago and from Minnesota and Wisconsin points to Chicago are relatively higher than the rates from the same territory into Missouri river or St. Paul.

Mr. RANSOM:

Q. Relative to what?

A. To each other.

Q. Considering the distance?

A. Yes.

Q. And you base all your statements on the Iowa distance tariff?

A. And on the Illinois schedule and the schedule of the Central Freight Association.

Q. You only calculate then into Council Bluffs, don't you?

2673 A. I don't calculate them to any market, I calculate them according to the Iowa distance tariff and according to those exhibits, it shows that the rates out of that territory are less than they are from——

Q. Well, you know well enough that the Iowa distance tariff don't rule the rates from western Iowa points into South Omaha, don't you?

A. No, I don't.

Q. You don't know that?

A. No sir.

Q. Do you think that the Iowa Commission makes rates into *South Omaha*?
A. I think the railroads——
Q. Do you think so?
A. In so far as the schedule of the Iowa Commission is used, yes.
Q. Who uses it?
A. The railroads in publishing rates into South Omaha use the schedule of the Iowa Commissioners plus the bridge toll.
Q. What is the bridge toll?
A. $4.00 a car.

Mr. Ransom: That is all.

R. C. Richards, called as a witness on behalf of the complainant in rebuttal, being first duly sworn, testified as follows:

Direct examination by Mr. Lynde:

Q. State your name, residence and occupation?
2674 A. R. C. Richards, Geneva, Illinois, Chief Claim Agent of the Chicago & North Western Railway Company.
Q. How long have you held that position with the North Western?
A. About 24 years.
Q. How wide is your jurisdiction over claims against that company?
A. I have charge of the investigation and adjustment of claims for loss and damage, freight claims, claims for personal injuries, for property destroyed by fire and a miscellaneous run of claims.
Q. Practically all the claims.
A. Except overcharges and claims for damage to land, the real estate part of it.
Q. Your control over the adjustment of those claims is absolute, isn't it?
A. Well, of course I am subject to the people that appointed me but I am supposed to look after the claims.

The Court:

Q. Every claim has to go through your hands?
A. Yes.

Mr. Lynde:

Q. That relates to and includes claims for damages to live stock and also claims for damages on account of loss on packing-house products or dressed meat shipments?
A. It does.
Q. And is delays to live stock included in that?
2675 A. Yes.
Q. What is the principal cause of claims on account of live stock, Mr. Richards?
A. Most always on account of delays in transportation.
Q. Delays in transportation?
A. Yes.

Q. How about the claims on account of loss or damage to meat or packing-house products?

A. They are most always for damage to property on account of failure to take proper care of the property while in transportation.

Q. Where the property then in some way has deteriorated in quality?

A. Yes.

Q. By reason of failure to take care of it?

A. Yes.

Q. Have you prepared or had prepared a statement showing the claims which were paid by you during the year 1904 for loss and damage on meat and packing-house products?

A. I did have such a statement prepared.

Q. Is that it? (handing statement to witness).

A. That is the statement. That top sheet is just some credits. The list of the claims is underneath there.

Q. That is the entire year beginning——

A. January 1st to December 31st, 1904.

The COURT:

Q. What was it you said about the claims for delays on the
2676 products?

A. I said those claims were nearly always for damage to the property on account of not being cared for properly while being transported, failure to ice the cars, etc.

Q. How much do they all amount to in one year?

A. The statement shows there, I think it is $5,000.00.

Q. $5,415.00?

A. Yes sir.

Mr. LYNDE:

Q. That is under the head of Chicago & North Western Railway proportion?

A. Yes.

Q. I wish you would explain to the court just what you mean by those two columns.

A. One column shows the total amount of the claim as paid. Another column shows the amount paid by the North Western and the other column shows the amount paid by the other lines that participated in the haul.

Q. Where the claims arise on our own rails, is the claim participated in then by other lines?

A. It is not, that is where we have the whole haul.

Q. But where we are connecting carriers with others, then the claim is proportioned on a mileage basis?

A. On a mileage basis.

The COURT:

Q. These are all small items?
2677 A. Yes.

Q. You haven't very many with S. & S.?

A. No sir, they don't do much shipping with us.

Mr. LYNDE:

Q. Is that true also in cases of those claims on account of wrecks or anything of that kind, is it then based on the mileage basis?
A. Of course a claim on account of a wreck would be charged to the road on which the wreck occurred. It would not be pro rated among the different roads.

Mr. DAWES:

Q. It is only where you cannot determine just where the damage to the property was incurred or commenced?
A. Yes. We divide up the damage claims on the mileage rate and the loss claims on the revenue basis.

Mr. LYNDE:

Q. And that is determined by the rules of the——
A. Freight Claim Association.
Q. You list also here the names of all claimants?
A. They are all shown there.
Q. Now, Mr. Richards, in reference to these claims when presented, what investigation was made by you?
A. We investigate to find out whether or not the claim is meritorious. If it is meritorious the claim is allowed.
Q. That applies, of course, only to claims for loss occurring
2678 on our own line?
A. Yes.
Q. You cannot investigate claims that arise elsewhere?
A. Well, I could but I do not.
Q. You rely on the investigation made by the other company?
A. I do.
Q. You have business enough on your own line, haven't you?
A. Yes.
Q. State whether in fact those claims so shown upon this statement are all *bona fide* claims paid by you during that period?
A. They are.

Mr. LYNDE: That may go in as Richards' Exhibit No. 1.
(Paper so marked.)

Q. Look at that statement and explain what that is. (handing paper to witness).

2678*a* RICHARDS' EXHIBIT No. 1, Trans., p. 2678.

No 1.

Statement of Amount Paid in Settlement of Claims for Loss and Damage on Meat in the Year 1904.

Claim No.	Claimant.	Date.	Amount paid.	C. & N. W. Ry. Prop.
K-16326	Martin Dooley	1/13/04	$1.95	$1.95
K-2723	Morris & Co.	1/14/04	6.00	6.00
E-67918	Cudahy Packing Co.	1/15/04	130.78	130.78
K-13227	Schwarzschild & S.	1/15/04	7.83	7.83
H-77585	Swift & Co.	1/15/04	17.64	17.64
H-93915	Cudahy Packing Co.	1/15/04	73.04	23.36
K-2884	" " "	1/15/04	9.41	9.41
K-13107	" " "	1/15/04	6.66	6.66
K-7064	" " "	1/15/04	82.86	83.86
H-97369	Swift & Co.	1/19/04	4.18	4.18
K-16154	H. Baumhover	1/21/04	3.00	3.00
K-2197	A. Olinger	1/22/04	1.50	1.50
K-20290	Milcher & Irvin	1/26/04	3.69	3.69
K-14313	Froehlich & Deiter	1/26/04	3.50	3.50
K-2352	L. B. Albight & Co.	1/30/04	15.56	13.82
K-8963-5	Libby McNeill & L.	1/30/04	8.09	8.09
K-3092	Swift & Co.	1/30/04	3.40	1.12
K-2724	Morris & Co.	2/1/04	6.50	6.50
K-4974	" "	2/1/04	2.75	2.75
K-13012	Armour & Co.	1/29/04	2.70	2.70
K-2722	Morris & Co.	2/6/04	3.63	3.63
H-76629	Plankington Packing Co.	2/6/04	72.53	72.53
K-18780	Swift & Co.	2/11/04	1.70	1.70
H-82470	Cudahy Packing Co.	2/11/04	11.85	11.85
K-14925	Armour & Co.	2/18/04	9.40	9.40
K-30094	J. E. Anderson & Co.	2/12/04	1.24	1.24
K-26843	Fred. Hyer	2/29/04	.85	.85
K-3098	Cudahy Brothers Co.	2/15/04	6.19	3.09
K-4817	Armour & Co.	2/15/04	4.96	4.96
H-82436	" "	2/15/04	9.21	9.21
K-1104	Omaha Packing Co.	2/24/04	2.75	2.75
K-15540	Hammand Packing Co.	2/24/04	1.13	1.13
K-232	Cudahy Brothers Co.	2/29/04	21.50	21.50
K-31816	Cudahy Packing Co.	3/1/04	2.00	2.00
K-31820	Swift & Co.	3/1/04	3.50	3.50
K-19114	Armour & Co.	3/12/04	10.01	10.01
K-3584	" "	3/15/04	5.97	5.97
K-15720	" "	3/15/04	10.65	5.15
K-31476	Libby McNeill & L.	3/15/04	4.25	4.25
K-13226	Schwarzschild & S.	3/15/04	5.87	5.87

H-81823	Swift & Co.	3/15/04	298.26	298.26
E-00691	Libby McNeill & L.	3/15/04	4.50	4.50
K-17177	Armour & Co.	3/15/04	43.46	19.76
K-25169	Gust. Keeler	3/15/04	3.50	3.50
K-19541	S. & S. Co.	3/23/04	1.10	1.10
K-27706	Armour & Company	3/31/04	7.88	7.88
K-19813	Swift & Co.	3/31/04	7.76	7.76
H-61649	Cudahy Packing Co.	3/31/04	133.85	133.85
K-4980	" " "	3/31/04	107.30	107.30
K-17312	" " "	3/31/04	99.93	99.93
K-14564	" " "	3/31/04	3.37	3.37
K-21014	" " "	3/31/04	4.75	4.75
H-74556	" " "	3/31/04	24.20	9.65
H-40108	Agar Packing Co.	3/31/04	656.90	200.55
H-22994	Cudahy Packing Co.	4/1/04	6.50	6.50
K-17389	" " "	4/1/04	11.72	11.72
H-97945	" " "	4/1/04	7.80	7.80
K-31967	H. A. Armstrong	4/5/04	6.30	6.30
K-32032	Nelson Morris & Co.	4/6/04	2.75	2.75
K-27171	Swift & Co.	4/6/04	1.69	1.69
K-19113	Armour & Co.	4/6/04	5.41	5.41
K-32397	" "	4/12/04	.90	.90
K-77850	Libby McNeill & L.	4/28/04	2.80	2.80
	Carried Forward			

2678*b* No. 2.

H-93602	L. H. Heinemay	4/15/04	7.43	7.43
H-58277	G. W. Swartz	4/15/04	4.38	4.38
K-20782	S. & S. Co.	4/15/04	11.07	11.07
H-81636	Cudahy Packing Co.	4/15/04	9.57	9.57
K-14362	" " "	4/15/04	10.88	10.88
K-1463	" " "	4/15/04	4.63	4.63
K-16382	" " "	4/15/04	2.10	2.10
K-3097	Swift & Co.	4/15/04	5.74	5.74
K-17620	Elliott & Co.	4/15/04	8.46	8.46
K-31623	Bodden Packing Co.	4/15/04	3.08	3.08
K-46645	Swift & Co.	4/15/04	13.00	13.00
K-27705	Armour & Co.	4/30/04	61.24	61.24
K-26977	Swift & Co.	4/31/04	22.72	22.72
K-22865	G. H. Hammond & Co.	4/30/04	108.74	108.74
H-89318	Libby McNeill & L.	4/30/04	7.08	7.08
K-28234	Cudahy Packing Co.	5/1/04	7.66	7.66
K-29999	Armour & Co.	5/1/04	4.76	4.76
K-28124	Swift & Co.	5/1/04	20.75	20.75
K-29987	" "	5/1/04	6.51	6.51
K-32246	Cudahy Packing Co.	5/1/04	10.34	10.34
K-36750	" " "	5/1/04	12.65	12.65
K-36751	" " "	5/1/04	9.14	9.14
K-38058	" " "	5/1/04	5.78	5.78
K-38006	Swift & Co.	5/4/04	4.05	4.05

K-24670	W. A. Pieh	5/10/04	5.65	5.65
K-23987	Parks Groc. Co	5/14/04	9.99	9.99
K-36546	S. & S. Co	5/14/04	10.90	10.90
K-17094	Armour & Co	5/15/04	20.72	20.72
K-22221	Cudahy Packing Co	5/15/04	90.23	90.23
H-61651	" " "	5/15/04	203.68	203.68
H-63133	" " "	5/15/04	15.00	15.00
K-6816	" " "	5/15/04	11.16	11.16
K-31900	Morris & Co	5/15/04	8.33	1.33
K-24216	F. I. Johansen	5/15/04	18.46	8.46
K-29193	Schuett Bros.	5/16/04	2.00	2.00
K-29525	E. H. Kimbell	5/18/04	4.48	4.48
K-5457	Cudahy Packing Co	5/23/04	31.20	31.20
K-21506	Swift & Co	5/27/04	1.92	1.92
K-29504	Libby McNeill & L	5/31/04	1.25	1.25
K-33922	" " " "	5/31/04	54.98	54.98
K-32768	Cudahy Bros. Co	5/31/04	8.25	3.52
K-8890	S. & S. Co	5/31/04	43.50	43.50
K-23119	C. Frill	5/31/04	5.00	5.00
K-39208	Cudahy Packing Co	6/1/04	1.15	1.15
K-39277	" " "	6/1/04	2.09	2.09
K-39237	Swift Co	6/1/04	.25	.25
K-39238	" "	6/1/04	2.38	2.38
K-25960	Armour & Co	6/4/04	18.20	18.20
K-19810	S. & S. Co	6/4/04	4.00	4.00
H-82794	Cudahy Bros Co	6/8/04	3.38	3.38
K-40448	W. C. Harris	6/14/04	2.00	2.00
K-24386	S. & S. Co	6/15/04	54.64	54.64
K-35565	Swift Co.	6/15/04	3.54	3.54
K-28293	" "	6/20/04	7.39	7.39
K-24326	Armour & Co	6/20/04	5.12	5.12
K-45166	" "	6/21/04	7.50	7.50
K-45018	Omaha Packing Co	6/21/04	42.80	42.80
K-40612	T. M. Sinclair & Co	6/30/04	6.38	6.38
K-45357	Swift & Co	6/30/04	6.27	6.27
K-33370	Armour & Co	6/30/04	8.50	8.50
K-29430	T. M. Sinclair Co	6/30/04	7.93	7.93
K-15802	Cudahy Packing Co	6/31/04	5.90	5.37
K-52317	Swift & Co	7/1/04	1.50	1.50
K-33275	" "	7/1/04	3.26	3.26
K-52318	Cudahy Packing Co	7/1/04	2.35	2.35
K-39743	J. Snipe	7/7/04	1.00	1.00
	Carried Forward			

2678c No. 3.

K-55334	T. Wills	7/15/04	4.00	4.00
K-51262	Roew Kamp Bros	7/15/04	3.00	0.00
K-47155	F. J. Trottier	7/20/04	5.74	5.74
K-55530	L. Steckbauer	7/26/04	6.49	6.49
K-41285	C. C. Chocak	7/28/04	4.03	4.03

K-55015	Swift & Co.	7/28/04	7.15	7.15
K-47100	Cudahy Bros. Co.	7/28/04	1.50	1.50
K-47597	Plankington Oacking Co.	7/28/04	8.58	8.58
K-55028	T. M. Sinclair & Co.	7/29/04	14.76	14.76
K-40430	Nelson Morris Co.	7/30/04	50.22	16.64
K-51148	Libby McNeill & L.	7/30/04	11.14	1.54
K-3094	Swift & Co.	7/30/04	9.78	9.78
K-51149	Swift & Co.	7/30/04	14.33	14.33
K-32564	Nelson Morris & Co.	7/30/04	2.70	2.70
K-40424	Armour & Co.	7/30/04	138.36	100.84
K-48297	Cudahy Packing Co.	7/31/04	190.29	190.29
K-71395	" " "	7/31/04	4.50	.59
K-45317	" " "	7/31/04	11.83	2.90
K-22826	Agar Packing Co.	7/31/04	5.01	5.01
K-24047	S. & S. Co.	7/31/04	11.28	11.28
K-43474	C. Shenkberg	8/1/04	2.95	2.95
K-47692	E. W. Bartlett	8/1/04	5.85	5.85
K-47674	Brittain & Co.	8/1/04	13.65	13.65
K-52396	N. Berter & Sons	8/2/04	3.63	3.63
K-42085	Rocho Bros.	8/4/04	3.05	3.05
K-52629	M. F. Krebsky	8/11/04	24.50	24.50
K-41913	P. E. Cohn	8/12/04	3.78	3.78
K-47099	Cudahy Bros. Co.	8/12/04	6.12	6.12
K-34981	C. R. Wagner	8/15/04	15.69	15.69
K-40252	Armour & Co.	8/15/04	8.00	5.95
K-33687	Cudahy Bros. Co.	8/15/04	4.05	4.05
K-14589	T. M. Sinclair & Co.	8/15/04	25.25	14.25
K-40851	Armour & Co.	8/17/04	1.52	1.52
K-50774	Swift & Co.	8/20/04	4.20	4.20
K-48317	Plankington Packing Co.	8/22/04	9.53	9.53
K-53023	C. Casperson	8/22/04	12.50	12.50
K-52492	Swift & Co.	8/25/04	22.33	22.33
K-42031	Libby McNeill & L.	8/25/04	5.15	5.15
K-41844	F. A. Kawtowski	8/25/04	20.77	20.77
K-26591	Swift & Co.	8/30/04	23.21	23.21
K-50569	S. & S. Co.	8/31/04	3.88	3.88
K-52494	Swift & Co.	8/31/04	7.88	7.88
K-51924	Armour & Co.	8/31/04	4.81	2.81
K-51750	Swift & Co.	8/31/04	8.48	2.47
K-50242	Nelson Morris Co.	8/31/04	22.20	22.20
K-47431	Plankington Pkg. Co.	8/31/04	13.11	13.11
K-38610	Libby McNeill & L.	8/31/04	11.64	11.64
H-74630	Swift & Company	8/31/04	12.93	12.93
K-48384	Finnish & S. Merc. Assn.	8/31/04	2.00	2.00
K-50057	P. S. Englebrecht & Co.	8/31/04	19.21	19.21
K-40824	G. W. Randall & Co.	8/31/04	22.82	22.82
K-6056	A. E. Cayer	8/31/04	15.50	15.50
K-37815	Mrs. E. H. Kimball	8/31/04	4.78	4.78
K-47405	H. L. Brown & Son	8/31/04	17.50	17.50
K-57602	Cudahy Packing Co.	9/1/04	3.84	3.84
K-49747	Peterson Bros.	9/1/04	1.30	1.30

K-52352	Swift & Co.	9/15/04	3.04	3.04
K-40963	" "	9/15/04	8.09	8.09
K-49556	Cudahy Packing Co.	9/15/04	.58	.58
K-49550	Plankington Pkg. Co.	9/15/04	6.53	6.53
K-42553	Bodden Packing Co.	9/15/04	6.00	6.00
K-44510	Nelson Morris & Co.	9/15/04	1.00	1.00
K-56838	Swift & Co.	9/15/04	7.99	7.99
K-42999	Iowa Food Co.	9/15/04	39.83	39.83
K-56484	Coleman Bros.	9/15/04	.85	.85
K-57058	M. Telot	9/15/04	1.74	1.74
	Carried Forward			

2678*d* No. 4.

K-44068	Karls Bros.	9/15/04	2.42	2.42
K-43857	Harnern & Balcom	9/15/04	10.50	10.50
K-56715	Brittan & Co.	9/16/04	4.68	4.68
H-39015	Cudahy Packing Co.	9/30/04	64.75	64.75
K-64915	Swift & Co.	9/30/04	8.32	8.32
K-58650	Cudahy Packing Co.	10/1/04	2.98	2.98
K-39122	" " "	10/1/04	19.18	19.18
K-54458	O. Erickson	10/15/04	1.93	1.93
K-48699	Elce & Erickson	10/15/04	2.75	2.75
K-32315	Swift & Co.	10/15/04	3.63	3.63
K-44772	Omaha Packing Co.	10/15/04	1.60	.83
K-49392	Plankington Pkg. Co.	10/15/04	4.23	4.23
K-50770	Swift & Co.	10/15/04	16.67	16.67
K-54805	J. E. Anderson & Co.	10/31/04	3.80	3.80
K-58364	A. H. Livermore	10/31/04	3.04	3.04
K-38477	Karsen Thorne	10/31/04	174.40	174.40
K-54474	Landon & Boyd	10/31/04	1.50	1.50
H-5430	Cudahy Packing Co.	10/31/04	61.82	61.82
K-43556	T. M. Sinclair & Co.	10/31/04	129.04	129.04
K-49722	Swift & Co.	10/31/04	10.62	10.62
K-43788	Nelson Morris & Co.	10/31/04	8.69	8.69
K-48398	Swift & Co.	10/31/04	8.77	8.77
K-56253	" "	10/31/04	5.95	5.95
K-48444	Swift & Co.	10/31/04	4.90	4.90
K-58928	T. M. Sinclair & Co.	10/31/04	9.71	9.71
K-57522	Cudahy Bros. & Co.	10/31/04	5.37	5.37
K-58212	Cudahy Packing Co.	10/31/04	5.00	5.00
H-48642	Cudahy Packing Co.	10/31/04	20.02	20.02
K-8753	" " "	10/31/04	294.00	32.00
K-49623	Swift & Co.	11/1/04	7.10	7.10
K-61122	Cudahy Packing Co.	11/1/04	3.00	3.00
K-61204	Swift & Co.	11/1/04	1.72	1.72
K-53219	" "	11/1/04	1.37	1.37
K-72594	" "	11/1/04	12.75	12.75
K-48147	H. R. Edwards	11/1/04	8.42	8.42
K-6553	C. H. Jacop	11/15/04	6.52	3.35
H-82489	D. B. Cousibin	11/15/04	12.85	12.85

K-58931	T. M. Sinclair & Co.	11/15/04	3.83	3.83
K-58933	" " " "	11/15/04	2.01	2.01
K-19811	S. & S. Co.	11/15/04	6.23	6.23
K-42958	" " " "	11/15/04	2.25	2.25
K-59435	Armour & Co.	11/15/04	3.09	3.09
K-46991	C. J. Gardner	11/15/04	4.49	4.49
K-44285	Cudahy Bros. Co.	11/15/04	7.93	7.93
K-58383	" " "	11/15/04	3.50	2.10
K-65226	Swift & Co.	11/15/04	9.75	9.75
K-58182	Cudahy Packing Co.	11/28/04	1.44	1.44
K-47236	" " "	11/28/04	60.18	60.18
K-1040	" " "	11/28/04	17.85	17.85
K-32561	" " "	11/28/04	87.66	87.66
H-74557	" " "	11/28/04	3.40	.66
K-1077	Swift & Co.	11/28/04	.40	.40
K-756	T. M. Sinclair & Co.	11/30/04	10.60	10.60
K-75198	Armour & Co.	11/30/04	4.56	1.41
K-62663	Cudahy Packing Co.	12/1/04	.85	.85
K-62818	" " "	12/1/04	3.91	3.91
K-62817	" " "	12/1/04	6.00	6.00
K-62815	" " "	12/1/04	2.00	2.00
K-62814	" " "	12/1/04	2.00	2.00
K-62813	" " "	12/1/04	1.94	1.94
K-62771	" " "	12/1/04	6.63	6.63
K-70254	Swift & Co.	12/1/04	2.07	2.07
K-70359	" "	12/1/04	20.84	20.84
K-72595	" "	12/1/04	11.56	11.56
K-43534	J. Darrow	12/2/04	1.02	1.02
K-66299	J. B. Countrymann Co.	12/15/04	4.80	4.80
	Carried Forward			

2678e No. 5.

K-56679	J. Moreau	12/15/04	5.36	5.36
K-66365	Bainab & Davis	12/15/04	13.77	14.77
K-52617	J. E. Decker & Sons	12/31/04	9.95	9.95
K-66641	H. Martin	12/31/04	6.64	5.45
K-76802	J. Widman	12/31/04	2.30	2.30
K-52994	Swift & Co.	12/15/04	100.00	100.00
K-27073	Armour & Co.	12/15/04	13.84	13.84
K-59621	" "	12/15/04	11.75	11.75
K-54921	T. M. Sinclair & Co.	12/15/04	14.83	14.83
K-53088	Armour & Co.	12/15/04	8.00	8.00
K-56254	Swift & Co.	12/15/04	21.58	21.58
K-75642	Armour & Co.	12/15/04	5.03	5.03
K-58528	C. G. Kriell	12/15/04	.56	.56
K-71941	Plankington Pkg. Co.	12/31/04	10.94	10.94
K-19177	Cudahy Bros. Co.	12/31/04	6.75	6.75
K-66329	Morris & Co.	12/31/04	16.00	9.55

K-75279	Cudahy Packing Co.	12/31/04	7.13	7.13
K-76160	" " "	12/31/04	1.70	1.70
K-59052	" " "	12/31/04	10.79	10.79
K-42295	Swift & Co.	12/31/04	4.37	4.37
K-44749	Armour & Co.	12/31/04	5.44	3.55
K-75641	" "	12/31/04	6.02	6.02
K-75743	Nelson Morris Co.	12/31/04	22.91	22.91

2678*f* Statement Showing Number of Claims Entered and Amount Paid out in Settlement of Damage and Loss Claims During the Year- 1903, 1904, and 1905.

No. of claims.	Year.	Amount.
54103	1903	$287644.86
56495	1904	345151.17
57229	1905	283176.38

Statement Showing Number of Claims Entered and Amount Paid Out in Settlement of Live Stock Claims During the Year- 1903, 1904, and 1905.

No. of claims.	Year.		Amount.
1358	1903 (delay only)		$49266.70
1246	1904 (" ") from Jan. 1st to Aug. 1st	$39656.43	
	Loss, damage & delay	13825.70	
		$53482.13	
			$53482.13
1453	1905 (loss, damage & delay)		$40235.63

Richards Ex. Trans. p. 2679.

2678*g* Statement of Accidents Occurring on The Chicago & Northwestern Railway Between January 1st, 1905, and June 30th, 1904, in Which Persons Riding on Stock Passes were Injured.

Number.	Name.	Place.	Date.	Cost.
A-72338	John Platt.	Calamus, Iowa	2-3-04	$25.00
A-72614	Wm. Beeks.	U. S. Yards	2-24-04	
A-72817	Isaac Walker	Baraboo, Wis.	3-3-04	2085.00
A-73484	M. O. Callan	Alcester, S. D.	4-9-04	
A-76760	Hans Zimmer	Near Omaha.	4-18-04	
A-73998	O. H. Foss.	Kiron, Iowa	5-17-04	80.00
A-74003	Peter Ehlers.	Surprise, Nebraska.	5-16-04	10.00
A-74242	I. M. Olson.	40th., Chicago	6-1-04	250.00
A-74413	John A. Klous	Alton, Iowa.	6-6-04	50.00
				$2500.00

All properly on trains.

Persons Injured on Trains While in Charge of Cars of Emigrant Moveables January 1st, 1904, to June 30th, 1904.

Number.	Name.	Place.	Date.	Cost
A-72384	Frank Howard	Geneva, Illinois	2-8-04	25.00
A-72872	Wm. Switzer..... ...	Mo. Valley, Iowa.....	3-2-04	25.00
				$50.00

Persons Injured While Loading Stock (Not Riding on Trains) January 1st, 1904, to June 30th, 1904.

Number.	Name.	Place.	Date.	Cost.
A-72491	A. J. Leonard.....	Algona, Iowa..... . .	2-13-04	$15.00
A-72634	E. H. Carmichael.	Dunlap, Iowa.....	2-20-04	2.00
				$17.00

Richards, Ex. — Trans. p. 2679.

2679 A. Well, that is a statement showing the number of freight claims that were presented during the years 1903, 1904 and 1905; the amount paid in settlements; the number of stock claims that were presented, and a statement also showing the amount paid, the number of people transported on stock trains that were killed or injured, and the amounts paid in settlement of claims arising from those accidents.

Q. For those three years?

A. For those three years.

Q. Referring to the item for 1903, what is the amount?

A. Some $48,000.00 on account of injuries to persons transported, on stock claims.

Q. I wish you would explain what was the occasion for that particularly large item that year?

A. The amount was $49,850.00, to be accurate, and that large amount was caused principally by reason of a very serious wreck we had at La Fox, in which there was a large number of stock men killed and injured.

Q. That amount was paid on account of those claims?

A. Paid in settlement of those claims.

Q. There is a large number of suits pending on account of that wreck now, is there not?

A. They are all closed up.

Q. I will ask you to look at that statement, and explain what that is. (Handing statement to the witness.)

2679*a* Statement of amounts paid out during the year 1904 for damage and loss to freight as follows:

Damage and loss to—				
Live stock.		Packing house products and fresh meats.		
From—				
West of Mo. River.	Points in Iowa.	Sioux City.	So. Omaha.	St. Paul.
$11901.06	$17672.34	$1375.78	$2883.71	$530.98

Statement of Amounts Paid Out for Loss and Damage to Live Stock During the Years 1902, 1903, 1904, and 1905.

Date.	Amount.	Estimated No. of cars shipped.	Average per car.
1902	$57868.50	75000	$ .77
1903	$63893.16	75000	.85
1904	$59248.44	75000	.79
Jan. to July, 1905...	$27073.03	37500	.73
	$208083.13		

Richards Ex., Trans. p. 2680.

2679*b* C. & N. W. R. R.

Statement.

Years Ending June 30th.

	1903.	1904.	1905.
Freight Claims Presented...	47,905	58,327	54,789
Amount Paid in Settlement of Freight Claims.....	$267,305.81	$327,699.07	$309,489.54
Stock Claims Presented.....	1,470 (Nov. to June)	1,155	1,337
Amounts Stock Claims were Originally Presented for..	$121,050.57 (Nov. to June)	$112,466.56	$113,616.53
Stock Men Injured While Riding on Stock Transportation	42	11	13
Amounts Paid in Settlement of Cases of Stock Men Injured.....	$49,850.70	$2,691.00	$2,077.01

Years Ending December 31st.

	1903.	1904.	1905, Jan'y to June.
Amounts Paid in Settlement of Stock Claims.....	$63,893.16	$59,248.44	$27,073.03

Ex. 15.

2679*c* C. & N. W. R. R.

Statement Showing Amount Paid Out for Damage and Loss on Live Stock During the Eight Months Ending August 31st, 1905, East and West of the Missouri River.

West of the Missouri River.....	$3264.78	10.4%
East " " " "	27969.71	89.6%
Total.	$31234.49	

Ex. 14.

2680 A. That is a statement made up to show for the eight months of this year the amount paid in settlement of claims for damage to live stock in transit, or for delay to live stock, or both, on the line east of the Missouri river, the line west of the Missouri river belonging to the Northwestern.

Q. State the amounts?

A. West of the Missouri river the amount paid was $3,264.78; east of the Missouri river the amount paid was $27,669.71; the total was $31,234.49 for the first eight months of this year.

Mr. COWAN:

Q. That year, 1903, of the disastrous wreck, occasioning the large amount of personal injuries, was exceptional, was it not?

A. Yes, sir, fortunately.

Q. Do you know the number of live stock cars handled by your company?

A. I only know in a general way.

Q. Generally what is it?

A. About 100,000 a year, I understand.

Q. The largest proportion is on the lines east of the Missouri river?

A. Yes, sir.

Mr. LYNDE: I think it appears from the evidence about 90,000.

Mr. COWAN: He says he knows in a general way that it is about 100,000.

Mr. LYNDE: I prefer that the statistics go in.

Mr. COWAN: I supposed the other statement was a general

2680*a* Statement of amounts paid out during the year 1904 for damage and loss to freight, as follows:

Damage and Loss to—				
Live Stock.		Packing house products and fresh meats.		
		From—		
West of Mo. River.	Points in Iowa.	Sioux City.	So. Omaha.	St. Paul
$11,901.06	$17,672.34	$1375.78	$2883.71	$530.98

Statement of Amounts Paid Out for Loss and Damage to Live Stock During the Years 1902, 1903, 1904 and 1905.

Date.	Amount.	Estimated No. of cars shipped.	Average per car.
1902.....	$57868.50	75000	$ .77
1903.....	$63893.16	75000	.85
1904.....	$59248.44	75000	.79
Jan. to July 1905...	$27073.03	37500	.73
	$208083.13		

Richards Ex. —, Trans. p. 2680.

2681 statement.

Mr. LYNDE: No, the other statement was made by the general manager in the Traffic Department.

The COURT: Any other questions?

Mr. LYNDE: That is all.

J. J. RYAN, called as a witness in behalf of the complainants, having been first duly sworn, testified as follows:

Direct examination by Mr. COWAN:

Q. State your name and what your business is and where you live?

A. My name is J. J. Ryan; I live at Fort Dodge, Iowa; my business is farmer and secretary of the Corn Belt Meat Producers' Association.

The COURT: Speak a little louder.

Mr. COWAN: Speak right up.

The WITNESS: My business is farmer, cattle feeder and shipper.

Q. You are Secretary of the Corn Belt Meat Producers' Association?

A. Yes, sir.

Q. In the course of your business as such secretary have you acquainted yourself on the matter pertaining to freight rates in your part of the country on shipments of live stock to Chicago

2682 and elsewhere?

A. Yes, sir.

Q. Are you able to state whether or not those rates are reasonable or otherwise?

Mr. LYNDE: I object.

The COURT: You may answer the question, whether you state it or not.

The WITNESS: Answer it?

The COURT: Are you able to state whether they are reasonable or not, not what they are?

The WITNESS: Yes, sir, I am able to state.

Mr. COWAN: Then answer the other question.

The WITNESS: What was the question?

The COURT: Did you say whether you are able to state or not?

The WITNESS: Yes.

The COURT: Ask him how he is able to state.

Mr. COWAN:

(Q.) Were the rates reasonable or not?

The COURT: Let him show what he bases his judgment upon that he can state it first.

Mr. COWAN: State what your reasons are?

The WITNESS: For saying——

The COURT: What makes you think you know whether they are reasonable or not?

Mr. COWAN: That is the question I asked him. Now I want to ask him his reasons for it.

2683 The WITNESS: Because I know what the rates are from other places on live stock and I know what the rates are on several other commodities.

The COURT: What have you done in the way of investigating shipments on the different rates and comparing them?

The WITNESS: Well, I haven't made any general investigation further than what I have known as I picked it up right along in my business, going over my business, and my intercourse with people that know.

Mr. DAWES: I submit he can't help us, your Honor, in this case, unfortunately.

The COURT: It doesn't seem to me he can, Mr. Cowan.

Mr. COWAN: I am just leaving it for him, whether he knows.

The WITNESS: I don't know as the question——

The COURT: Do you think you have investigated the matter enough to know whether the railroads are charging too much or too little, whether they are making money on these rates or not?

The WITNESS: Your Honor, that wasn't the question. I haven't had a question to that effect, if I understand.

The COURT: I asked that now.

The WITNESS: I think I have investigated the question enough to be able to know that the railroads are charging too much.

Mr. DAWES: I object. You were told not to answer that question.

2684 The WITNESS: Well, I didn't intend to do anything improper. Read the question, please.

Mr. COWAN:

Q. Have you investigated it enough to be able to form an opinion whether these rates are reasonable or not on live stock from Iowa points to Chicago?

A. What was the question, please?

The COURT: I don't believe he has. I will sustain the objection.

Mr. COWAN:

Q. Are you acquainted with the running time of the trains carrying live stock from your part of the country to Chicago?

A. Yes, sir.

Q. State what it is.

A. Well trains, where they carry stock alone, they make about 17 miles an hour, and trains where there is other freight along, where other freight is carried, they make about 15 miles an hour.

Q. Do the trains that carry live stock also carry other sorts of freight from Fort Dodge and that locality?

A. Yes, sir.

Q. How is the comparative time of the speed made now with w[illegible] it was a few years ago?

A. They make slower time.

Q. Explain in what way?

2685 A. They carry heavier trains and they compel the shippers to load earlier than they did. We used to load at our place at about 9 o'clock and get to Chicago—and the same

generally all through that neighborhood—and get to Chicago in time for the market, and now we have to load at five o'clock in the morning and get to Chicago no earlier.

Q. What other kind of freight have you noticed being hauled in live stock trains?

A. What other kinds of freight?

Q. Yes.

A. Why, dressed meat, and I have noticed land plaster or stucco, wall plaster being hauled, and such as that—grain.

Q. Are you able to state what the comparative value of the service to the shipper is now as compared with a few years ago?

A. I would say that the value of the service today is not—the service is not as valuable today as it was some years ago.

Q. How many years ago?

A. Five, or such a matter.

Mr. DAWES: What is the reason for that?

The WITNESS: For the reason that they make slower time and load their trains heavier.

Mr. COWAN:

Q. Do you know anything about the average value of live stock per hundred pounds and the average value of dressed meat and packing house products per hundred pounds?

A. I think I do.

2686 Q. What is it?

A. The average value of the live stock hauled from our country would be probably about $4.00 a hundred and the average value of the dressed meats according to the price at which they are sold, I should say would be somewhere between $6.50 and $7.00 per hundred.

Mr. DAWES: Value where, Fort Dodge?

The WITNESS: Yes, sir.

Mr. DAWES: You value the dressed meat at Fort Dodge and also the live stock?

The WITNESS: Yes, sir.

Mr. COWAN:

Q. Who furnishes the bedding for stock cars?

A. The shippers.

Q. Who puts it in the cars?

A. They do.

Q. Who sets the cars at the chutes?

A. Sometimes the railroads set them and sometimes the shippers.

Q. Under what circumstances do the railroads set them?

A. Well, at places where the shippers cannot handle the cars, where they have switch engines, sometimes they set them at stations where the yards—where the yards are in such a condition that the shippers can't run the cars to the chutes.

Q. Are you acquainted with the value of the stock yards on the railroads in Iowa?

A. The value of their yards at the different stations?

Q. Yes.

A. I think I am, yes, sir.
2687 Q. Do you know what the value of such construction is?

Mr. DAWES: Well, where? What stations? What roads?
Mr. COWAN: I said their stations in Chicago. I didn't name them.
The COURT: In Iowa. How many stations or pens have you examined at the different places in Iowa? Have you examined them so that you can say you are acquainted with the construction?
The WITNESS: I have seen perhaps one-fourth, at least, of the pens in the yards through the state, and I have noticed the pens throughout the state for the last fifteen or sixteen years.
The COURT: Well, go ahead.
Mr. DAWES: On what roads?
The WITNESS: Nearly all. There might be one or two I missed, but the principal part of them.
The COURT: Go ahead. What do you say about it?

Mr. COWAN:

Q. What in your opinion, is the value of those stock-yards with which you are acquainted?
A. I would say the average value is not to exceed $350.00 to $400.00.
Q. Do you know what the character of the repairs is that is made on them to keep them up and what the value of such repairs is?
A. Well, the repairs are very limited that are put on those yards.
In a great many instances the shippers have to repair the
2688 yards themselves.

The COURT: Whose road is that on?
The WITNESS: Well, at the Minneapolis & St. Louis I have seen shippers repair them themselves. I have repaired yards at the Great Western myself to keep my hogs from going through the cracks.
Mr. DAWES: Do you mean all the yards on the Great Western.
The WITNESS: At Fort Yards.
Mr. DAWES: You said the yards of the Great Western.
The WITNESS: The yards would refer to the bunch of yards.
Mr. DAWES: Would it?
The WITNESS: Yes.
Mr. DAWES: I didn't know.

Mr. COWAN:

Q. What is the size of those pens?
A. They are generally about 40 feet square, I think.
Q. How many pens to the yard?
A. Well, some have two and some have four.
Q. What in your opinion, is the cost of keeping them in repair?

Mr. DAWES: He has just said it didn't cost anything. He has just answered that question.
Mr. LYNDE: He said it didn't cost the railroad anything.
The WITNESS: I didn't say it didn't cost anything.

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dressed meats and packing house products, such as hides, horns, bones, glue, and fertilizer, and then add to that the tonnage of supplies that go into the houses, you will find that it comes pretty close to the weight of the live animal, in the aggregate; and then the number of people employed in the live stock business compared with the number of people who find employment in the packing houses—one firm employs about 5,000 in one house at Kansas City and another 3,000—about 8,000 representing 30,000 or 35,000 population that have got to be clothed and supplied.

Commissioner PROUTY: You have to carry those supplies out there?

Mr. BIRD: Yes, sir; if the factory was here we would not carry it. We carry almost everything—the whole carcass of the animal. There is very little waste. There is more sprinkage in the blood of dressed beef than in the packing house products.

Commissioner FIFER: What effect does this differential
265 have on the producers and raisers of live stock. Are they interested most in having the packing house less than the live stock?

Mr. BIRD: I think to the producer of live stock there is a decided benefit in having the packing house there?

Commissioner PROUTY: I don't quite understand what you mean.

Mr. BIRD: I mean that the packing houses on the Missouri River give to the Western farmers much better prices for his live stock than they could get if they shipped to Chicago.

Commissioner PROUTY: And they had better have it slaughtered there?

Mr. BIRD: Yes, sir; he has better results—the Western producer. It is evident from the number of cattle going from Iowa into the Missouri River.

Commissioner PROUTY: Suppose you reduce the rate on live stock so people shipped to Chicago on the same terms; would they still continue to ship into the Missouri River?

Mr. BIRD: I had occasion to inquire into that—it is hearsay. I inquired what the relative prices were on the Missouri River for live stock at the time the rate on provisions and live stock was the same, and the consensus of opinion, or the answer that I obtained was that they obtained a better net result at the Missouri River than they could at Chicago when you take into account the additional haul of the live stock, the additional run and additional shrinkage; that the difference would not pay a reasonable freight rate.

The CHAIRMAN: Is that equivalent to saying that in your opinion if the rates to Chicago from these Iowa points of production were on the same basis, having reference to distance, as the rates from that same producing territory to Omaha, still the live stock would go to the Missouri River rather than to Chicago?

Mr. BIRD: I think within a certain reasonable zone; yes, sir; but when they come to equal distances, or approximately so, I
266 think the stock would come here. It does come now, in my opinion, much farther distances to Chicago than it does to the Missouri River.

The CHAIRMAN: What Mr. Tomlinson complains of is that the rates are so much higher on the live stock from this territory in Iowa to Chicago than they are to Omaha, having reference to distance; and now you say, in your opinion, that if they were put on the same basis, still the advantages of the near by market to the producer—that those advantages would lead the shipper to that market rather than to Chicago?

Mr. BIRD: My belief is that an enormous percentage of the live stock consumed at the Missouri River, at the packing houses, comes from west of the Missouri River. That which goes in there from the east side of the Missouri River—back westwardly to the river—is a very small percentage. Now, I cannot verify that without going into it, but I am sure that a very large proportion of the supply of live animals used by those packing houses come from the west; and if the packing house rate from the Missouri River was the same as the live stock rate, still the Western producer would get better general results by marketing his cattle on the Missouri River than in Chicago.

The CHAIRMAN: Now, one or two minor question-. In the very early part of your testimony you were speaking with reference to the rates from the Missouri River and you said that the lines east of Chicago get the same whether that traffic originates in Chicago or on the Missouri River.

Mr. BIRD: I think they do.

The CHAIRMAN: Is that true also of traffic that originates in St Paul?

Mr. BIRD: I believe it to be so.

The CHAIRMAN: So with reference to all the traffic here in controversy, cattle, hogs, sheep, dressed meat, and packing house products, whether originating at St Paul or on the Missouri River or at Chicago, the lines east of Chicago get exactly the same—
267 without reference to the point of origin?

Mr. BIRD: I think that is true.

The CHAIRMAN: Mr. Hanson, do you desire to ask Mr. Bird any questions?

Mr. HANSON: I was only brought into this case this afternoon, without notice and without conference, and I would like to talk with Mr. Bird and see if it is necessary to call him in the morning.

The CHAIRMAN: You will have an opportunity to call him if you desire to examine him. Mr. Kellogg, do you, or any of counsel for the railroads desire to interrogate Mr. Bird?

Mr. KELLOGG: Mr. Bird, is it not necessary that the rate to move farm products to far eastern points must necessarily be lower than the intermediate locals?

Mr. BIRD: I think if there was an attempt to handle all the farm products from far and near on the sums of the locals, it would narrow the zone of possible shipments to Eastern markets. In other words, the making up of through rates by adding the locals is impracticable.

Commissioner PROUTY: What do you mean by "local"?

Mr. BIRD: Well, the tariff rates from Kansas City to Chicago on

packing house products to-day is 20 cents. I do not believe that the system of making rates such as adding 20 to the rate from here east would, if applied to freight traffic, generally, especially to farm products, move the crops or farm products to market successfully after you get a certain distance.

Commissioner PROUTY: That is the way you have made the rate on packing house products in the past. You have added the rate from Kansas City to Chicago to the rate from Chicago to New York.

Mr. BIRD: Because those rates were at times unusually low, unreasonably low.

Commissioner PROUTY: You made the rate in that way when the rate was 23½ cents from Kansas City to Chicago, did you not?

Mr. BIRD: We thought it was too low. We got $70. a car
268 from Council Bluffs to Chicago on the old style of car.

Commissioner PROUTY: How do you make the rate on grain from Kansas City to Chicago?

Mr. BIRD: It is a proportional rate made up to the Mississippi River, and from thence to New York.

Commissioner PROUTY: Well, take the rate from Kansas City to St. Louis and the rate from St. Louis to New York, and the rate from Kansas City to Chicago and Chicago to New York?

Mr. BIRD: Yes; but the rate from the wheat-producing belt, away out in Kansas and beyond, to New York, are not made up of the locals from the wheat belt to Kansas City, Kansas City to Chicago, Chicago to Buffalo and Buffalo to Albany and Albany to New York.

Commissioner PROUTY: That is not what I meant by locals. If you take the locals every ten miles, that would not be so. You treat the rate from Chicago to New York as a local.

Mr. BIRD: It is not the local. It is the combination of rates of two systems of roads. The rate from here to New York on any commodity, certainly as a general proposition, is greater than from here to Buffalo and from Buffalo to New York on the same article, or combination on Pittsburg or any of the western Trunk Line termini.

The CHAIRMAN: Have you said all that you desire to say with reference to the history of these rates?

Mr. BIRD: I think I have, sir. I want to go back and make it plain that the establishment of the 23½ cents rate, which for a considerable period applied on both live stock and the products, was not a rate arrived at upon its merits, but a rate which was especially forced in by reason of a contract of a single carrier and was the maximum that anybody else could obtain; and that is true to-day of the 20 cent rate. I mean that some one line made a rate, or made a contract, and has undertaken to carry at that price.

Mr. COWAN: I want to ask one question and that is whether or not the 23½ cent rate was an agreed rate between all the rail-
269 roads reaching Missouri River points from Chicago?

Mr. BIRD: That was the rate they all adopted at that time within a short limit.

Mr. COWAN: Did they all meet and agree, through traffic associations or otherwise, to put that rate into effect?

Mr. BIRD: I cannot testify on that point. I do not remember.

Mr. COWAN: Was it not done by the Western Freight Association or traffic Association?

Mr. BIRD: I do not understand—I do not recall the time when the Western Traffic Association or any other association had the power to make rates.

Mr. COWAN: They did publish them?

Mr. BIRD: They published information circulars, and at one time we had a printing bureau in the association which printed our tariffs for economy; publishing joint tariffs showing the rates on each road. They were not all alike, the tariffs.

Mr. COWAN: Don't you recall that in the Terminal Charge case there was introduced in evidence a joint circular issued by the Western Freight Association that put into effect the terminal charge, and also stated the 23½ cent rate from Kansas City, signed by all the railroads—a whole string of them?

Mr. BIRD: The railroad companies independent of any organization or agreement in an association had an arrangement among themselves to have their tariffs printed in one place, where they were all alike and when there were exceptions they were noted. That was a plan for economizing the cost of printing tariffs in large numbers by a great many railroads.

Mr. COWAN: That would not account for making them all the same figure.

Mr. BIRD: They were not all the same in every case by any means.

270 Mr. COWAN: 23½ cents to Kansas City?

Mr. BIRD: That might have been the uniform rate. The uniform rate to-day is 20 cents on packing house products to Chicago. They are all charging the same rate.

Mr. COWAN: You spoke of an agreement as the basis of the 23½ cent rate. I want to know whether the agreement was one between the railroads.

Mr. BIRD: I do not think I stated that there was an agreement to make the rate 23½ cents.

Mr. COWAN: I thought you said there was a compromise.

Mr. BIRD: Between that railroad company that had that contract and the packer.

Mr. COWAN: I thought you said you consulted.

Mr. BIRD: We did a great deal more than consult. We talked a good deal besides about that contract; that that rate was there and was liable to pull down all the rates and there was a compromise; but I know the highest rate that could be had under that contract finally was 23½ cents.

The CHAIRMAN: It amounts to this: That it transpired at some time that there was a contract between one road, or one or more roads and one or more large packers for a rate which was materially less than the published tariff?

Mr. BIRD: Yes, sir.

The CHAIRMAN: And you felt obliged, perhaps, for reasons which need not especially be referred to here, not to carry stuff at other than the tariff rates?

Mr. BIRD: That was the desire and intention.

The CHAIRMAN: So it came about that some compromise was effected with that particular shipper in respect to that contract finally as the result of which all roads filed a tariff of 23½ cents?

Mr. BIRD: Yes, sir; and incidentally, if you please, the *the* tariff bureau printed the tariff in joint tariff form and covered all articles as well as live stock. The roads did not charge the same on everything, and there was a foot-note to show that this road or
271 that charged this rate and that rate.

The CHAIRMAN: Mr. Mills, perhaps you would like to ask Mr. Bird some question.

Mr. MILLS: I think not at present.

Mr. TOMLINSON: I want to ask one or two questions. I have one witness here that I would like to call this evening before we adjourn—Mr. Doud. I suppose he will consume the remaining time and the other witnesses might be excused.

The CHAIRMAN: We will not sit much longer than 5 o'clock.

Mr. TOMLINSON: Mr. Bird, the live stock rates from Iowa points to New York are made up of the sums of the locals from and to the Mississippi River, are they not, or on Chicago?

Mr. BIRD: I do not want to testify positively about that, Mr. Tomlinson?

Mr. TOMLINSON: What is your impression?

Mr. BIRD: My impression is that it is neither.

Mr. TOMLINSON: The tariffs show.

Mr. BIRD: The tariffs show what the rates are. But my recollection is—of course the maximum rate that can be charged from a given point in Iowa to New York is the local rate to the Mississippi River plus the tariff rate then to destination. There is a great variety of distances from common points or common area to the Mississippi River. For instance, from Ottumwa, Iowa; the Burlington line from Ottumwa to Burlington is much less than any other line from Ottumwa or the vicinity of Ottumwa to the Mississippi River. So there is a scale of rates which applies to the Mississippi River from that group or zone, and it is applied by all lines regardless of distance, except that in no case can it be higher—no; there is an average rate charged to the Mississippi River.

Mr. TOMLINSON: Now, as a general proposition, from Western Iowa points to Eastern points, to New York, would it not move on the sum of the two local rates, via Chicago?

272 Mr. BIRD: It might.

Mr. TOMLINSON: Would it not, as an absolute proposition?

Mr. BIRD: You have got to sit down and figure out the Iowa tariff to the Mississippi River.

Mr. TOMLINSON: It is 18½, 5 cents less than to Chicago.

Mr. BIRD: 18½?

Mr. TOMLINSON: Yes, sir.

Mr. BIRD: What is?

Mr. TOMLINSON: The rate on cattle and hogs from Iowa points to the Mississippi River. Take hogs, for example.

The CHAIRMAN: That is, from the same point, the rate is 23½ cents to Chicago and 18½ cents to the Mississippi River?

Mr. TOMLINSON: Yes, sir. But it is needless to consume time in discussing it. The tariffs show, and it can be shown on brief.

Mr. BIRD: I do not remember the exact figures.

Mr. TOMLINSON: I will waive the question for the present. Do you charge terminal on fresh meat and packing house products brought in here?

Mr. BIRD: No, sir.

Mr. TOMLINSON: Why don't you?

Mr. BIRD: For the same reason we made the 20 cents rate. The other line made the rate 20 cents net.

Mr. TOMLINSON: Do you charge terminal on live stock, Mr. Bird?

Mr. BIRD: Yes, sir.

Mr. TOMLINSON: That is all.

Witness excused.

Mr. TOMLINSON: I must call Mr. Doud now because he is very busy at the Yards in the morning and cannot come down.

The CHAIRMAN: We will excuse Mr. Bird for the present.

273 After Recess.

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The CHAIRMAN: Gentlemen, you may proceed.

Mr. BIRD: Mr. Chairman, if you please, I would like to make some correction in the testimony I gave yesterday, which I think was misunderstood.

The CHAIRMAN: If there is no objection, you may resume the stand now for that purpose.

There being no objection, Mr. Bird resumed the stand.

Mr. BIRD: In my testimony yesterday—I find that what I said may be construed as a bald statement that rates in this western territory are too low. I had in my mind in testifying the fact that there was a distinct charge that the rates on live stock were too high in themselves, that in other respects the complaint was based upon comparisons. Now, I had two other facts in my mind which influenced my statement and which I wish to state to the Commission, as to the rates in the West being relatively too high. I had occasion during the fore part of this year to investigate the facts, comparing eastern trunk lines with the western roads. I found that the total traffic on the St. Paul's 6,600 miles reduced to ton miles for a year's operation was equal to 551,000 mile tons per annum for each mile of road. I found that the traffic on the Pennsylvania and New York Central Railroad east of Pittsburg and Buffalo, reduced to ton miles, was equal to about three and a half million mile tons for each mile of railroad per annum, showing the enormous difference in the concentration or density of traffic in the west and east.

The CHAIRMAN: Nearly seven times as much.

Mr. BIRD: Yes, sir; nearly seven times as much. So that while our rates in the West are higher per mile than the rates on the Trunk Lines which have this enormous tonnage, the difference is not so much when it comes to the mere matter of comparison of density of traffic. While the Pennsylvania mile tons was something in excess

of that of the New York Central, it was in round figures three
274 and a half million mile tons per annum for each mile of road.

Answering as to the reasonableness of the live stock rates, I had in mind facts which had been fully impressed upon my mind in a general way in the preparation of the previous case. I was trying to show the relative fairness or just comparison between values and service on live stock in the West and other articles; and while the basis of rates which I used as a comparison were not precisely the same, in some instances they were so nearly alike and the comparisons are so startling as to afford a very substantial bit of evidence bearing upon the question of relative fairness of live stock rates, the prices and values which were then used as a basis were at the time accurate. They are not accurate at this time, but the prices of the various commodities have probably advanced in the same general ratio. I have the figures here for a haul of 200 miles and the values based upon 20 head of cattle in a car, averaging $42.50, or a total of $850: and the rate for 200 miles was $22.61—2.6 per cent. of the value of the property. That is, the transportation charge was 2.6 per cent. of the value of the property. The rate on coal—taken from the standpoint of cost to the carriers at the mines in the interior, soft coal—was in Iowa and Illinois at the same time $2.50 a ton. Based on 20 tons to the car, the value would be——

Mr. TOMLINSON: Can I interrupt you as you go along?

Mr. BIRD: I prefer you would ask me afterwards any question that you have. I am not a lawyer and I cannot talk connectedly if I am interrupted.

Mr. TOMLINSON: What rate are you using—the Illinois distance tariff?

Mr. BIRD: Yes, sir; the Illinois distance tariff.

Mr. TOMLINSON: Not the actual rates in Iowa for that distance.

The CHAIRMAN: Proceed, Mr. Bird.

275 Mr. BIRD: There are a great variety of articles here. The value of a carload of brick was $48. and the rate—a basis of rates entirely too low in proportion to other business—was 85 per cent. of the value of the property. And so it goes on all the leading articles of coarse freight—freight not subject to fast service or great risk. Cattle for that distance, as I have explained, pay only 2.6 per cent.; coal 92 per cent.; staves and heading 15 per cent.; brick 85 per cent.; lumber 23 per cent.; salt 51 per cent.; refrigerators—that is, domestic refrigerators—2.82 per cent.—2.8 per cent. The rate on ice, based on $1.50 a ton, was 113 per cent. of the freight rate, while cattle, as I have explained pay only 2.6 per cent. for that distance. I want to say in connection with these rates that they are approximately correct. They are not far away from the rates which are complained of.

I had occasion at the same time to compare the railroad's earning capacity on live stock with the total charge exacted, or to which that stock was subjected to after the transportation act was complete, and I found on a 50-mile haul and the rate on this basis was not much in excess, if any, of the average through rates charged from Chicago

on Iowa stock. The freight was $14.63 and the yardage $5.; commission $10.; hay $1.25; making a total of $16.25, which was 111 per cent. of what the railroad got out of it on a 50-mile haul; and on sheep in single deck cars they got 139 per cent. of the freight rate. On hogs in double-deck cars, they got 114.10 per cent. For 100 miles it was, on cattle $16.25 terminal charge against $18.05; and on hogs in single decks the railroad charge was $19.50 and the charge here was $12.05 and so on down. I wanted to make clear the statement that I made yesterday, or explain the statement, which appeared to be that the present rates were too low.

Mr. HANSON: You mean in comparison?

Mr. BIRD: In themselves—that was the inference that might be drawn from my testimony of yesterday. I did not mean it
276 in that way. I did say in answering Mr. Tomlinson's question that they were too low, but I had in mind all the time the question of comparison generally, and his allegation that the live stock rates were in and of themselves too high, independent of any question of comparison.

Commissioner PROUTY: Suppose you were to apply the same test to your rates on live animals and dressed meat which you have applied here; what would be the relative per cent. of the freight rate to the value from the Missouri River?

Mr. BIRD: It would make a more unfavorable showing than on live stock, but we do not make those rates voluntarily. We had to make them. As far as the St. Paul Company is concerned, so far as my influence and action are concerned those rates are involuntary in every respect.

Commissioner PROUTY: It has been said that there is one class of commodities in this country where the product takes the same rate as the raw material. That is grain and grain products, and where that is true it is due to the fact that there are competitive conditions which force that. There are mills in the east and west and mills all along the lines of railroads, and in order to maintain those industries you have to make about the same rate on grain products as on the grain. Don't you think the same condition applies to an extent in the case of live stock rates and packing house rates?

Mr. BIRD: Whenever the rate has been within reason from our point of view, where the rates have not been excessively low, we have not charged a greater rate on the live stock than on the product, but where the product rate went down below what we believed to be a fair rate we did not think there was any reason why we should extend the area or the operation of a rate which seemed to be lower than it ought to be by comparison with other rates. So that whenever it has been reasonably free from competition we have not made it that way.

277 The CHAIRMAN: Do you think, Mr. Bird, that any conditions, competitive or otherwise, would justify a higher rate upon wheat than upon flour?

Mr. BIRD: I think so, sir. To illustrate it by a proposition which is the reverse, it would be simply justified if the conditions were reversed, and to reverse those conditions would not be an impos-

sibility. The rate on wheat has been usually the same as on flour, and complaint was made against the western carriers because they were carrying wheat at a less price than flour. I believe it was complained of before this Commission, and it was shown that there were competitive conditions which affected the wheat transportation that did in like manner affect the flour, and it was admitted then that there was a justification for a reasonable difference between them on account of the difference in competition, which affected wheat and not flour. While it may not be probable under existing conditions to-day that the case would be reversed, if it were reversed the same line of reasoning would be reasonable. If there was strong competition upon flour which did not affect the wheat business there might be a justification for making a lower rate than upon wheat. One is just as reasonable and just as straight in its logic as the other. In this case wheat was carried by water from Milwaukee and Chicago or to Duluth and by water from there and exported at a very low rate from the seaboard. The Commission held that there might be a difference of 2 cents between flour and wheat; and I presume—and it is a logical presumption—that had the competition converged upon flour and not upon wheat they would have arrived at the same conclusion, because it was competition and nothing else that decided the case and we claim that is the case to-day in the matter of live stock and its products. From the 1st of July and thereafter for some little period—the railroads being comparatively at liberty—did charge the same on the product as on the live animal.

278 Commissioner PROUTY: It rather appears from this testimony that your rates on packing house products to-day is higher than it has been for the last 15 years, on the average.

Mr. BIRD: I could not admit that at all, sir. I do not believe it is correct, on an average. The rate for a period perhaps was lower, but as a general proposition I cannot admit it. I do not believe it is correct.

The CHAIRMAN: Without accepting your views as to what the Commission held in the case to which you referred—as my understanding of it is somewhat different—what you say now may be true with reference to the reasonableness of rates on one article or the other, but when two articles are highly competitive with each other then the question of discrimination comes in, and there surely must be a limit within which the force of competition can be held to justify discrimination.

Mr. BIRD: That must be naturally very largely a question of opinion. I find no criterion, no set rule by which these questions of difference or co-relation shall be adjusted; we do not know, and the conditions on one railroad may be very different from those on other railroads, different from what they may be on other railroads at the same time.

The CHAIRMAN: The question is whether as a general proposition you can maintain that if a normally low rate is forced upon one article that no complaint can be made of a competitive article except with reference to its reasonableness. That is to say, in this case if

it be true that for one reason or another you make or accept a lower rate than you think you ought to get or are entitled to get on packing house products and fresh meat, does that justify you in charging all that is reasonable *per se* on live animals?

Mr. BIRD: I do not suppose it would—I cannot answer that question, but I want to assume in answering that the 23½ cent rate on live stock is not reasonable *per se*. It is too low in itself, and it will be found to be too low on comparison and by any other test
279 you may make. If you will take the value of that property itself, the market value, and see what 23½ cents means, what the percentage that is of the rate, and take articles of low value not subject to damage or any such as requires any such services as live stock, you will find that the percentage of the value is low, showing at once that it is in fixing rates with reference to values that the rate of 23½ cents is too low on live stock.

Commissioner PROUTY: The competition which you claim is the act of the Great Western Railroad in putting in the 18½ cent rate?

Mr. BIRD: A 20 cent rate to Chicago.

Commissioner PROUTY: It put in that rate on packing house products alone. Now, suppose our attention was addressed not to your company, but to the Chicago Great Western Company; has that company any justification for making a lower rate on packing house products than on live stock?

Mr. BIRD: I have this to say on that, that while I differ essentially, as to the justification, I differ with the views of the Great Western Company, I am not sufficiently familiar with its traffic, and all the conditions which must guide the Great Western in its judgment and decision; I cannot judge them from that standpoint. Theoretically, to make a tariff on every article that we carry and put each article in its proper relation to the others, while it is very difficult, you would naturally put a greater tax on articles of high value and of greater concentration than on the coarser article; and if it were left to my judgment and decision, free from all competitive force, I would put a higher rate on dressed meat than on cattle, but when this competition on cattle by which the rate has been forced down from year to year, to a basis of 23½ cents, beyond all reason, less than it should be in comparison with coarse articles of freight and then from any cause some other article was reduced, I should simply try to determine whether we could meet that competition or
280 pay the cost incidental to transportation, and have something left over to the general fund, and if I thought we would I would meet it.

Commissioner PROUTY: It does not appear that there was any special competition that the Great Western had to meet; none of you were making that rate that compelled that road to put in that rate, but made it by virtue of a contract by which it secured for seven years an agreement for so much traffic. Can you conceive of any reason to justify that road in making a lower rate on packing house products than upon the live animal?

Mr. BIRD: I think so.

Commissioner PROUTY: Well what?

Mr. BIRD: If they could earn more money on the packing house product at the 20 cent rate than on the live stock at 23½ cents, I think that would be perhaps a reason—probably not sufficient, but a reason that would go far towards influencing them.

Commissioner PROUTY: Suppose we were to direct the Great Western—that we had power to compel the Great Western road to put in the same rate on live stock that it makes on the packing house product, what effect would that have upon your live stock?

Mr. BIRD: It would reduce them very greatly in Western Iowa and Central Iowa, Southern Minnesota and North and South Dakota—reduce them so much that the net loss would be greater than any possible profit obtained from hauling the packing house property from Sioux City and Omaha, and if it was a requirement—that a condition of doing that business was to pull down the stock rates we would go out of the business; we would choose the least of two evils, but it would not materially relieve the situation complained of by these gentlemen:

Commissioner PROUTY: You say the live stock rate has been forced down by competition. Do you remember what the live stock rate was from the Missouri River, say, twelve years ago?

281 Mr. BIRD: No, sir; I am not clear. I have two leading facts, in my mind, and I do not place them in proper relation to each other as to the time; I am not clear about them.

Commissioner PROUTY: Was not the rate lower at that time than it is now?

Mr. BIRD: My impression is that it was higher. It was the same—23½; it had been reduced to 23½ somewhere about that time.

Commissioner PROUTY: Has there been any proposition which has gone to the length of filing a tariff since then to raise the rate beyond 23½ cents?

Mr. BIRD: I do not recall any.

Commissioner PROUTY: Has there been any proposition to raise the packing house rate to 23½ cents?

Mr. BIRD: Within the last twelve years?

Commissioner PROUTY: Within the last twelve years.

Mr. BIRD: When this contract of the Chicago Great Western road was made known I met various railroad representatives at various times, and there was a question whether the rate ought not to be advanced on dressed beef, but no action—no formal conference or anything of the kind; it was simply passed up and down the line whether it would not be advisable to advance the rate instead of reducing it, but no serious attempt was made and no very serious effort. The question was, What shall we do? And it was canvassed from almost every standpoint. So I can say there has been an effort to advance the rate. We thought on the 1st day of July, when we got back to a net rate of 23½ cents on live stock and packinghouse products, it was a betterment over conditions during the previous six — or a year, and there was no disposition to go beyond that. But my impression is that it is useless to attempt to advance the rate beyond 23½ cents on pro-

visions because of the contract which I suppose yet to be in existence which makes that the maximum.

282 Mr. KELLOGG: What contract do you refer to?

Mr. BIRD: The Chicago & Alton contract with the Swift Company, a contract which was to run a certain number of years and under which there was a certain minimum fixed below which they should not have to go in meeting other people's rates. It was to run subject to a specified notice and is still in effect. That prevented any advance of the rate on dressed meat and packing house products.

Mr. KELLOGG: Mr. Bird, is it not a fact that there was a contract with one of the lines in existence which expired on July 1st of this year making a maximum rate of 18½ cents?

Mr. BIRD: Yes, sir. That was not the maximum rate on local business after the middle or latter part of January. The maximum rate was 23½ local and the proportional was 18½, expiring by limitation on the 30th of June. After the 30th of June and following this hearing before this Commission in May in which we asked for a postpon-ment of this case, the rates were then put back to 23½ cents. The tariff which had been issued in January, or February, expired by limitation. New tariffs made the minimum rate 23½ cents on dressed meats and packing house products, which was the same as the live stock rate to Chicago, whether on through or local business, and that continued until your company (The Chicago Great Western) contract was made and announced, and then we met that rate only.

Mr. KELLOGG: Now, Mr. Bird, there are lines reaching St. Paul and Kansas City that were not included in the injunction, were there not?

Mr. BIRD: Yes, sir.

Mr. KELLOGG: Is it not a fact that after July 1st, when that rate was increased—in fact, after and during the summer that the Chicago Great Western Railroad did not get much packing house products at Kansas City and St. Joe? Don't the returns show that?

Mr. BIRD: I really do not know. The returns are available. You can easily find out.

283 Commissioner PROUTY: I think they are in this case.

Mr. KELLOGG: I think you will see that. You believe the Great Western got all it could, don't you, on the packing house products?

Mr. BIRD: I think you got as much as the packers were willing to pay.

Mr. KELLOGG: And we got all the packing house product we could get to haul? You believe that, too, don't you?

Mr. BIRD: Certainly I do.

Mr. KELLOGG: Mr. Bird, is it not a fact that the surplus agricultural products of this country, are mainly exported—manufactured product?

Mr. BIRD: That is my general understanding. I think it is.

Mr. KELLOGG: And the rate that the railroads can get for the

surplus manufactured product is largely governed by market conditions?

Mr. BIRD: You cannot get any more for transporting a carload of freight from Kansas City to Chicago than the difference in the market price.

Mr. KELLOGG: Nor from Kansas City to New York destined for any foreign port, can you?

Mr. BIRD: You cannot get any more from the Missouri River to New York than the difference in the market value.

Mr. KELLOGG: There are times when market conditions justify and force the railroads to make a less rate on flour than on wheat, are there not?

Mr. BIRD: Market conditions?

Mr. KELLOGG: Yes, sir; for the export business, for the surplus business of this country?

Mr. BIRD: I am not informed upon that point as much as I am as to the competitive conditions.

Mr. KELLOGG: Those competitive conditions are largely market conditions, are they not?

Mr. BIRD: Well, Mr. Kellogg, I am not very well informed upon those points.

284 Mr. KELLOGG: Don't you know, Mr. Bird, that it is better for this country to export its surplus as manufactured product than as raw material?

Mr. COWAN: That raises a political question.

Mr. KELLOGG: It raises questions bearing on this packing house rate.

Mr. BIRD: I have no doubt that it increases the value of the exports.

Mr. KELLOGG: Does it injure the public generally, the producer, the consumer and the manufacturer to have this manufactured rate, or this packing house product rate, less than the stock rate?

Mr. BIRD: I think that the stock rate—I think that the fact that the rate on provisions is less than on live stock has this result—that it is the greatest good to the greatest number of people.

Mr. KELLOGG: I think that is all.

Commissioner FIFER: At whose expense are the packing house products loaded and unloaded?

Mr. BIRD: By the owner of the property.

Commissioner FIFER: And the same with the live stock?

Mr. BIRD: Not wholly so. We pay for handling live stock at the stock yards and unloading; we pay a small fee.

Commissioner FIFER: Does the railroad incur any expense at all in loading and unloading of packing house products?

Mr. BIRD: No, sir.

Commissioner PROUTY: When you say the low packing house rate as against the higher live stock rate benefits the greatest number, what do you mean by that?

Mr. BIRD: I mean the producer—I mean that the only persons involved in this case that are subject to any possible injury, is the live stock commission men of Chicago; whereas the method of han-

dling the business on the Missouri River and at South St. Paul results in taking a market nearer to the producer and giving him a higher price than he could get by shipping to a more distant market.

285 He gets a better price and he gets it nearer home.

Commissioner PROUTY: Assuming that there was competition in the purchase and slaughter of these live animals, it would be desirable to afford the producer just as many competitive markets as possible in which to sell? It would be desirable to so adjust the freight rate that those animals could be slaughtered with equal advantage at the Missouri River or in Chicago?

Mr. BIRD: I do not believe that—I don't quite understand the question.

Commissioner PROUTY: It was in the testimony this morning, or rather yesterday, that on the Missouri River nobody bought these animals but the packers, but at Chicago there were other purchasers; so that the Chicago market might be said to be competitive for the sale of live stock to an extent that other markets were not; but assuming now that all markets were equally competitive when you get the animals there, would it not be for the interest of the public that the freight rate should be so adjusted that animals might go equally to the Missouri River or to Chicago for the purpose of being sold and slaughtered?

Mr. BIRD: We could not make a tariff, in the first place, or enforce a tariff that would make it as profitable for the Western farmer to ship to Chicago as it would to ship to Kansas City, because Kansas City business is not confined to Chicago and the East. It ships back into the country moderately from which the stock came and to the South and Southwest. It is that market for their manufactured goods, among other things, which enables them to pay prices so high to the farmer or producer that he could not possibly get the same beneficial results if he shipped it to Chicago, no matter how moderate the rate was. In other words, the conditions of market supply and demand in the Missouri Valley are such as to logically and effectively head off a large volume of this business, no matter how fair and just the rates may be.

286 Commissioner PROUTY: That is to say, that a certain amount of the stock slaughtered on the Missouri River is sold west of the Missouri River?

Mr. BIRD: West and south, and exported by way of the south, through Gulf ports.

Mr. KELLOGG: And that is competitive with the railroads to Chicago?

Mr. BIRD: Yes, sir; and east of Chicago.

Mr. TOMLINSON: You say, Mr. Bird, that the only people concerned in what may be called these preferential rates are the commission men of Chicago. Suppose you were a farmer out in Iowa and raising cattle, about 100 miles east of the Missouri River, and the farmer in Nebraska, on less valuable land, was able to market his product in the City of Chicago by shipping it to Omaha, for example, and coming east at a rate not in excess of the rate you were

charged from your shipping point to Chicago; would you not consider yourself discriminated against?

Mr. BIRD: No; not if I got a fair rate for the service performed for me; I would be satisfied.

Mr. TOMLINSON: Is not the Iowa man entitled to the benefits arising from his geographical location?

Mr. BIRD: Yes, sir; he is much nearer the Missouri River than Chicago, and is entitled to the benefit of that market.

Mr. TOMLINSON: Do you claim that the rates are fairly adjusted now from the Missouri River on packing house products and live stock?

Mr. BIRD: They are not what we would like to have them. I am speaking about the rate on live stock from Iowa to the Missouri River or Chicago, one or the other; the rate in one direction is fair as compared with the other direction.

Mr. TOMLINSON: As it is now the man adjacent to the Missouri River is compelled to go to the river market?

Mr. BIRD: He is only forced to do it because he is getting better results.

Mr. TOMLINSON: He is able to get better returns why?

287 Mr. BIRD: Because of the price paid by the packers on the Missouri River.

Mr. TOMLINSON: What does the price depend upon?

Mr. BIRD: Upon the supply and demand, not only in Chicago but elsewhere.

Mr. TOMLINSON: And on what the packer can market his product for?

Mr. BIRD: Not altogether on the price he can market his goods in Chicago for, but all around the country.

Mr. TOMLINSON: You said a few moments ago that under ideal conditions that you would make the rate on fresh meat higher than on live stock. For what reason would you make it higher than on live stock?

Mr. BIRD: Simply because the relative values ought to be taken into account, not literally, but to some extent, and because of concentration of values should pay something more than that which is less competitive.

Mr. TOMLINSON: Is that the only reason?

Mr. BIRD: I believe the tariff should be made on the basis of what the traffic will bear.

Mr. TOMLINSON: I am not quite clear as to your views upon that. Yesterday you said competition controlled rates. Now, you are submitting some comparisons as to value——

Mr. BIRD: I expressed myself clearly yesterday, and to-day intend to. We are simply getting all out of the dressed meat and packing house product which competition will permit us to get. If there was no competition and we are at liberty to adjust our rates upon a general theory or scientific basis we would doubtless put a higher rate upon dressed beef than we do upon cattle.

Mr. COWAN: I understood you to answer Judge Prouty that the provision rate of 23½ cents was the result of a contract made between

the Alton Railroad and Swift and that the present rate is also the result.

Mr. BIRD: I said it resulted from that contract.

Mr. COWAN: That is the word I used—as the result of it. And the present rate is likewise the result of a contract between the
288 Great Western Railroad and all these packers. Now, then is it not necessarily a conclusion from those two facts as a premise, that none of the rates are affected either by supply or demand of the product or by competition, but solely by the fact that these contracts were made and the other roads put the rates in to meet the competition? It is not the natural competition?

Mr. BIRD: That is competition and nothing else. You cannot make anything else out of it.

Mr. COWAN: It arises from a contract.

Mr. BIRD: Primarily it does not arise from the contract, but from the determination of some one road to take the business.

Mr. COWAN: One other question. I believe you said in answer to Mr. Kellogg that the relative prices at which you would charge,—which should be charged—for moving produce from Kansas City to New York, or from Kansas City to Chicago, was the difference in the market value of those articles?

Mr. BIRD: No, sir; I did not. I said all we could get for carrying a carload from the Missouri River to Chicago was the difference in value at the two markets.

Mr. COWAN: Does the difference in market values fix the freight rate or does the freight rate fix the difference in market value?

Mr. BIRD: Sometimes one and sometimes the other.

Mr. COWAN: Does not the fact that you made a low rate on packing house products have a tendency to make the values of those products very nearly the same at the different markets at the Missouri River and Chicago, and would there not be a corresponding difference if you were to advance or lower the rates on packing house products?

Mr. BIRD: Not in this case; it would have no effect.

Mr. COWAN: Would it have any effect upon the market in New York if you put in an 18½ cent proportional as against 23½?

289 Mr. BIRD: No, sir; I do not think it would.

Mr. COWAN: Would it not have exactly that much difference?

Mr. BIRD: No, sir; I do not think so.

Mr. COWAN: Why wouldn't it? It would cost that much more to put it there.

Mr. BIRD: If I am correctly informed, the people who manufacture and sell live stock products at the Missouri River are the same that manufacture and sell it here or in New York.

Mr. COWAN: Then they have a monopoly of the business?

Mr. BIRD: I don't know whether they have or not; I have heard that they had.

Mr. COWAN: It is a strong suspicion. Is not that monopoly aided by the fact that you make them a lower rate upon their

product than you do upon the live animal on which there is no monopoly?

Mr. BIRD: I am not going to attempt to defend the rate on the manufactured product. It is not what I am satisfied with. I don't want to swear to——

Mr. *Bird:* I don't mean to challenge your judgment.

Mr. BIRD: I don't want you to put me on oath to swear to what I guess.

Mr. COWAN: There is a great deal of this guess work. Well, now referring to another matter. Have you not a statement from Swift & Company showing the number of cars of packing house products handled by them during the year 1901, which shows the total tonnage on fresh meat separate from the other? Have you such a statement?

Mr. BIRD: No, sir; I have not. I left my papers on the desk here last night, and I presume you have the wrong information as to what was in them.

Mr. COWAN: Let's see the paper.

Mr. BIRD: It is private property. It is erroneous and I have not intended to use it.

290 Mr. COWAN: Why do you think it is erroneous, Mr. Bird?

Mr. BIRD: That is my business, I don't propose to talk about it unless the Commission ask me. I will tell them anything I know about it.

Mr. COWAN: Counsel have a right to ask you questions.

Mr. BIRD: I do not mind explaining it; but you are off the track; you have lost your trolley. It was the entire weight of live stock that went into the packing house from these various roads. It was not anything that passed over the St. Paul road.

Mr. COWAN: Have you ever obtained a statement from Swift & Company showing the amount of tonnage—of the dressed meat and packing house products—which your road has handled—the number of cars—whereby it could be divided up showing the average weight per car of dressed meats and per car of packing house products?

Mr. BIRD: I do not recall any.

Mr. COWAN: You say that is a private paper?

Mr. BIRD: I want to explain to the Chairman that in my haste last night I left my papers upon this desk, and they were mixed up with the gentleman's papers, and he took the liberty to investigate them himself. I do not propose to be cathauled in that way.

Mr. HANSON: Did you leave your pocket-book?

Mr. BIRD: No, sir; I would not have gotten that back.

Mr. COWAN: Mr. Bird, have you from the books of the Auditor's office or any other person engaged with your railroad a statement showing the tonnage and the average weight per car of fresh meat and the average weight per car of other packing house products?

Mr. BIRD: I do not know whether I ever had or not.

Mr. COWAN: You heard Mr. Stickney's testimony this morning in which he stated the weight that his road——

Mr. BIRD: I want to say that I do not remember any statement.

291 Mr. COWAN: How are you able to know whether these rates are reasonable and proper or not unless you know these factors which go to make it up?

Mr. BIRD: I do not attempt to defend these rates, their reasonableness *per se*, for one minute.

Mr. COWAN: Are you willing to furnish to the Commission a correct statement as to what this tonnage has been, going over the period of 1901? Certainly you have a record in your office of the average weight of the dressed meat and the average weight of the packing house products as compared with cattle and hogs?

Mr. BIRD: In the first place, there is no such record in the St. Paul Company's archives. If it could be obtained it would have to be gotten from papers put away on storage and segregated from an immense amount of data and picked out of the waybills. It would require a great deal of time to prepare it if it could be had at all. If the commission asks the St. Paul Company for information of that character, it will exercise its best efforts to supply it, but without that order, a positive order from this Commission my answer is no.

Mr. COWAN: Let me ask you another question. Do you know as an officer of the company whether or not a carload of dressed meats pays you more money than a carload of cattle from the Missouri River to Chicago? Do you know that fact now?

Mr. BIRD: What do you mean—to Chicago or on through business?

Mr. COWAN: Put it either way. Put it on through business.

Mr. BIRD: I would prefer to have an opportunity to do some figuring before I answer that question.

Mr. COWAN: Were those figures taken into account at all when you made the rate to meet that which the Great Western put in?

Mr. BIRD: No.

292 The CHAIRMAN: If there are no further questions, Mr. Bird, you may be excused.

There being no further questions, Mr. Bird was excused.

Mr. HANSON: Take your papers with you this time.

Mr. BIRD: Yes, sir; I have them this time.

Mr. TOMLINSON: I want to say in explanation only that *that* the papers were wrapped up by the janitor with mine and sent over to the hotel. I will call Mr. Boyd, if you please.

293 CHICAGO, ILL., *January* 22, 1903
9:30 o'clock a. m.

The CHAIRMAN: Gentlemen, are you ready to proceed?
Mr. HANSON: Yes, sir. We will call Mr. Bird.

A. C. BIRD, a witness on behalf of defendants, having been duly sworn, testified as follows:

Mr. HANSON: I think it appears in the record, but I will ask you, Mr. Bird, what your position is with the Chicago Milwaukee & St. Paul Railway?

Mr. BIRD: I am Vice President, in charge of traffic.

Mr. HANSON: How long have you been connected with the Chicago Milwaukee & St. Paul Railway Company in its traffic department?

Mr. BIRD: Twenty years on the first day of this month.

Mr. HANSON: And you had considerable experience before that time with other companies?

Mr. BIRD: About eighteen years.

Mr. HANSON: I desire first to call your attention to the testimony of Mr. Tomlinson given in this proceeding, in respect to a statement which he procured from the Auditor of the Interstate Commerce Commission and which he introduced in evidence for the purpose of showing that there had been no reduction in the rates for a number of years last past on live stock. His testimony is this:

"Based upon this statement and what I know from examination of other tariffs, there have been no substantial changes in the rates on live stock from points in Missouri, Iowa and Wisconsin to Chicago in the past ten or twelve years. From some of these stations there have been slight reductions; from others a good many advances; the only important change has been an advance in the hog rate, on December 1st, 1894, from 22 to 23½ cents."

294 I will ask you to refer to that statement which Mr. Tomlinson had in mind when he gave his testimony and state briefly to the Commission what that statement shows in reference to advances or reductions.

Mr. BIRD: The exhibit presented by Mr. Tomlinson covers eight or nine different statements. Taking the entire period covered by his exhibits down to the present time there is shown a material reduction in every case, or in substantially every case. There are three stations in Missouri, namely, Plattsburg, Lawson, and Lexington, which are on the St. Joe branch of the Santa Fe road, lying between St. Joseph on the northwest and North Lexington on the southeast. There seems to have been no record in the Interstate Commerce Commissioners' office of the rates from those three stations. On April 30, 1888, to and including July 20, 1889—those three stations were a part of the road I represented for twelve years, the St. Louis, Kansas City and Northern, and I know what the rates were. Part of that road was under a separate receivership. But from the Auditor's statement, the rate charged in 1888 was $55.00 a car, on short cars, of much less capacity than the present cars. On January 10th and thereafter the rate was 26 cents per hundred, whereas the

rate today is 23½ cents. I do not find any other cases in this statement except those which show a material reduction.

Mr. HANSON: Outside of those three stations in Missouri—every other station shows a reduction in the live stock rate from the first date given there up to the last date given?

Mr. BIRD: Yes, sir.

Commissioner PROUTY: I suppose those rates all speak for themselves.

Mr. HANSON: I simply want to call the Commission's attention to this in connection with Mr. Tomlinson's statement, which
295 is absolutely contrary to what the statement itself shows. Mr. Tomlinson also testified in connection with that exhibit that there was a slight reduction for just a month or two,—I think August or September of the same year. What was that reduction and how long did it actually continue as shown by that statement, Mr. Bird?

Mr. BIRD: On the 20th day of July, 1889, it appears from this statement, the rate was 22 cents per hundred pounds from these stations, which are a short distance east of the Missouri River. They continued in effect until December 20th, 1889, and at that time the rate was reduced to 18 cents. The rates continued until the 5th day of August, 1890, and were then further reduced to 12½ cents.

Mr. HANSON: How long did that rate remain in effect, Mr. Bird?

Mr. BIRD: Until the 24th day of August 1890, when it was made 22 cents. That continued until the 21st day of January, 1891. Then the 23½ cents rate was established. There was a rate war, quite an extensive war of rates, along the whole Missouri River, and the rate went as low as 12½ cents. It went to 22, then to 18, then 12½, then up to 22, and then back to 23 or 23½ cents.

Mr. HANSON: Was that reduction, instead of continuing a month or two, not in effect from December to August?

Mr. BIRD: The low rate was put in on the 6th day of August and advanced on the 25th day of August from 12½ to 22 cents, and on the 1st day of January that rate was advanced to 23½ cents.

Mr. HANSON: Mr. Bird, referring again to the testimony of Mr. Tomlinson, he testified that in the transaction of the live stock commission business the expense of transacting that business was from 75 to 80 per cent. of the receipts from the business. Have you made any inquiries into that and are you able to testify in regard to that?

Mr. COWAN: We consider that question irrelevant in this case. It was not brought into the case by us, but by Mr. Stickney
296 when he was on the stand. It is utterly foreign to this case. I asked at the close of the last hearing that what was said might be stricken out. It was not intentionally drawn out by us, and I do not think that matter ought to be again gone into. If we are going into it at all, we ought to have the witnesses who know the exact facts. Surely it is not material.

Mr. HANSON: It was brought out by Mr. Tomlinson without any question being put to him.

Mr. COWAN: You must remember that Mr. Stickney is the man

who first mentioned it voluntarily, if you were here. You were not here at the time, I believe.

Mr. HANSON: Yes, sir; I was here.

Mr. COWAN: I asked that it be stricken out at the last hearing.

The CHAIRMAN: Whatever may be said as to the relevancy of the fact, we are doubtful whether Mr. Bird is a competent witness.

Mr. HANSON: Just as competent as Mr. Tomlinson.

The CHAIRMAN: Mr. Tomlinson is in a somewhat different relation to the matter. He is not an officer, but an attorney for the Live Stock Exchange.

Mr. COWAN: He is employed by the Exchange.

The CHAIRMAN: I infer from your question, all that Mr. Bird knows about it is what he learned of it from inquiry.

Mr. HANSON: That is the way Mr. Tomlinson knew about it—by inquiry of commission houses. Now, our information does not agree with his. It is not, I concede, relevant to any real issue in this case. I simply want to show the Commission that our information shows an entirely different ratio of expense to receipts as testified to by Mr. Tomlinson.

The CHAIRMAN: Do you claim to have any personal knowledge in respect to the matter, or such connection with the business yourself as to make you familiar with it?

Mr. BIRD: I do not claim to have examined their books.

297 I have had an investigation made to see the relative value of Mr. Tomlinson's testimony; I went into it for that purpose—to see whether that sworn statement was entitled to weight. That was the purpose and motive of all my investigation. I have no information taken direct from the books of these firms. My figures differ very much from Mr. Tomlinson's testimony. I investigated with that in view. I thought he was testifying to things he was guessing at.

Mr. COWAN: He was necessarily guessing at it. He simply gave it as his opinion. He had not examined the books.

The CHAIRMAN: As the matter now stands, according to my recollection, Mr. Tomlinson made some general statement to the effect that their expenses were 75 to 80 per cent. of their gross receipts, while Mr. Stickney gave some testimony to the effect that their profits were extravagant, and Mr. Cowan, whether he objected to that testimony or not, made a motion to strike it out. Now, on that state of the record, it does not seem to us of sufficient significance to justify us in straining a rule of proof to allow hearsay testimony. If it is important to go into that, someone should be called to testify who knows about it.

Mr. HANSON: I do not think it is very important, except that I have some testimony to contradict Mr. Tomlinson generally, to show that his testimony was not formed upon the facts. I withdraw the question. Mr. Bird, I now call your attention to a table put in evidence by Mr. Tomlinson—I think it is his Exhibit No. 9; it is headed, "Statement of rates on cattle, in carloads, to Chicago, Illinois, from stations on the Chicago & Northwestern Ry. in Iowa, and from stations on the C & N W Ry. and C St P M & O Ry. in Wis-

consin and Minnesota, with distances to Chicago, compared with rates on cattle for similar distances." Mr. Tomlinson has here Clinton, Iowa, on the North-Western; distance to Chicago 138 miles, and the rate 14 cents. He compared that rate with the rate
298 from Madison, Wisconsin, on the Nortl. Vestern; distance to Chicago 138 miles, and the rate 12 cents; the object being, I understand, to show that the rate from Clinton, Iowa, for the same distance—14 cents—is too high. Will you explain those two rates to the Commission?

Commissioner PROUTY: Do you understand, Mr. Hanson, that the complainant is claiming that these intermediate rates which are less than 18½ cents are too high?

Mr. HANSON: Mr. Tomlinson is complaining that our rates from Iowa to Chicago are too high in and of themselves. That is one of the causes of this complaint, and he introduced this table for the purpose of making proof. I want to show that the table does not sustain that contention or inference at all.

Mr. COWAN: What exhibit is that?

Mr. HANSON: No. 9.

Mr. BIRD: This exhibit shows in the second column rates from Wisconsin points to Chicago, the distances varying from 138 miles up to 409 miles, and the rates which that second column carries, on the face of them, compared with rates for equal distances on the Northwestern road from points in Iowa and beyond to Chicago. Madison, Wisconsin, is 138 miles from Chicago by the short line.

It is 82 miles to Milwaukee. The highest rate that can be obtained on live stock from Madison to Chicago is the local rate from Madison to Milwaukee.

Mr. HANSON: Why is that so?

Mr. BIRD: The rates on all classes generally from Milwaukee to the East, to all Eastern markets, are the same as from Chicago. The Chicago, Burlington & Quincy line, starting in at Minneapolis, extending down the east bank of the Mississippi River through Wisconsin, reaches the Chicago market, but does not reach the Milwaukee market. The Illinois Central Railroad, running up into
299 the interior or the central part of the State, branching off to Madison in one direction, and still further up into the northwestern or western part of the State in another, are in the same condition as to competitive conditions with reference to Milwaukee as the Burlington line.

Mr. HANSON: It has no line into Milwaukee?

Mr. BIRD: No, sir. The market conditions at Milwaukee and Chicago are the same, excepting as to the volume of the stock business and the packing house interests. There are two or three considerable packing houses at Milwaukee. Those lines have invariably and by sheer force applied the Milwaukee rates to Chicago. So far as the North-Western and St Paul Companies are concerned it is impossible for them to get a higher rate to Chicago than to Milwaukee. So that, in fact, this exhibit compares the rate for 138 miles from Clinton, Iowa, with the rate from Madison to Milwaukee, 82 miles; the 82 mile rate being in fact 2 cents less than the 138 miles.

And this is true of all the stations embraced in the first and second columns of this exhibit. For instance, from Stillwater, Minnesota, the distance is 398 miles to Chicago, and the distance to Milwaukee by the shortest possible line is 338 miles. As a rule the difference in distance is 85 miles; in other words, Chicago is 85 miles farther away from the shipping point than Milwaukee, and when you get into the Southern part of Wisconsin, in a limited area, the distance to Chicago is the same as to Milwaukee. On the reverse side of the question where other comparisons are similarly made, the distance to Milwaukee is greater somewhat than to Chicago, probably from Central Iowa 36 miles and from other points nearly 80 miles, and the rates are made uniform to Chicago and Milwaukee as basing points. That is true, generally speaking, of other parts of the exhibit where rates into Omaha, Kansas City, and St Joe are compared mile for mile from the west with rates from points east of the
300 Missouri River to Chicago. The Missouri River does not run north and south, and yet it is necessarily a basing line.

There is a large area of territory west of the Missouri River in Kansas and Nebraska from which the rates to Omaha, St Joe and Kansas City are the same. So that there is a manifest discrepancy on the face of it with the rate according to distance that these various roads are charging. The district is grouped, and there are long horizontal runs in Nebraska as there are in Western Iowa, and when you take the rate from the western limit of some horizontal run and compare it with reference to distance, it compares unfavorably with the rate from some place, for instance, at the eastern limit of the horizontal run; one rate is lower per mile than the other. That is the character of the exhibits all the way through.

Mr. HANSON: I see in the exhibit Fall Creek, for instance; it is 253 miles from Milwaukee and the rate is 21 cents. Belle Plain, Iowa, is 254 miles to Chicago, and the rate is 21½ cents. Is that generally true through these exhibits, so that when the distances are compared the rates from Iowa points to Chicago are the same as from Minnesota and Wisconsin points to Milwaukee; that Chicago takes the same rate as Milwaukee and that additional distance is absorbed?

Mr. BIRD: That is true.

Mr. HANSON: Mr. Bird, some mention here has been made of the Illinois and Iowa tariffs in comparing the rates into Chicago. Will you briefly state to the Commission whether these rates are low or reasonable or not in your judgment.

Mr. COWAN: I do not object to Mr. Bird testifying upon the subject, but, if I recollect correctly, I think the matter was quite thoroughly gone into before. I leave it to the Commission. I think he testified before and testified they were too low.

Mr. HANSON: Mr. Bird testified that rates in the West gen-
301 erally were low as compared with Eastern lines.

The CHAIRMAN: He may answer.

Mr. BIRD: My belief, from experience and knowledge of general conditions, is that the rates in Illinois and Iowa are unreasonably low.

Mr. HANSON: Take the rates on live stock in these two States. Are

they unreasonably low as compared with rates on other articles in those States?

Mr. BIRD: Yes, sir; decidedly so. I do not think the rates on live stock from any of the territory, but especially Iowa and Illinois, bears a just proportion of the general charge, because considering the cost,—which is capable of demonstration—the cost of transporting live stock, the business is less valuable than dead freight that is carried on rates much lower than live stock. There is not a proper relation between the various rates, if you are to consider the value of the property, the value of transporting it, and the value to the property of the transportation service.

Mr. HANSON: Mr. Bird, have you the exhibit there introduced by Mr. Tomlinson which showed, I think, the increase of shipments into Missouri River points in the last few years?

Mr. BIRD: Yes, sir.

Mr. HANSON: One feature of the complaint here is that the rates, for instance, from points in Western Iowa to the Missouri River and from the same points into Chicago are so adjusted that the preference is with the Missouri River points. I will call your attention to another case. You happen to know of the case of the Chamber of Commerce of Milwaukee, where the question was as to the difference that should prevail in rates on grain into Minneapolis from Minnesota, South Dakota, and Northern Iowa points and from the same points into Milwaukee. Having reference to the rule fixed by this Commission as to arriving at the proper differential on those rates between Milwaukee and Minneapolis, have you applied that rule to these rates from points in Western Iowa to the Missouri River
302 and the same points to Chicago?

Mr. BIRD: Yes, sir.

Mr. HANSON: Applying that rule, what does that prove as to the present rates from these points to Missouri River points and Chicago?

Mr. COWAN: Before you begin, Mr. Bird, I will ask Mr. Hanson to state briefly what that rule is.

Mr. HANSON: There the rule was that a just and reasonable differential in such rates should be obtained by applying the interstate distance tariff of the St. Paul Railway or the North Western Railway, the short line mileage from the several points of shipment to Minneapolis and Milwaukee, and just and reasonable rates would be made to Milwaukee by adding the differential in effect to the rates to Minneapolis.

Mr. BIRD: I have used that tariff to ascertain the rate difference—not to determine the rate itself—to see if its application would show a discrimination against either one of the markets. As applied to the present relative rates, it would increase the differential against Chicago. I have applied it to Manila and Dawson as illustrative points. Dawson is 128 miles east of Council Bluffs; say, 135 miles east from South Omaha; and it is 371 miles from Dawson to Chicago. There is where the rate breaks. The horizontal run on the cattle rate commences at Dawson and runs west that 128 miles to Council Bluffs. Applied from Dawson, the present rate shows Chi-

cago is 9.24 cents greater than the rate from Dawson to South Omaha. This tariff would make the difference 11 cents. The rate on hogs from Dawson to Chicago is also 9.24 — greater than to South Omaha. It applies equally on hogs, sheep and cattle. So that if the rates were made to these markets, respectively (South Omaha and Chicago) on a properly and evenly distributed distance tariff, it would
303 result in a relatively lower rate to South Omaha.

The CHAIRMAN: That is to say, if the rule suggested by the Commission for the adjustment of relative rates on wheat to Minneapolis and Milwaukee, respectively, should be applied to the adjustment of relative rates on live animals as between Omaha and Chicago, respectively, using the lower rate as the basis, the result would be to increase the present rates into Chicago on live animals?

Mr. BIRD: Yes, sir.

The CHAIRMAN: Did you test that rule with reference to any other Missouri River market besides Omaha?

Mr. BIRD: I did not. I did not have the time; but the rates are no greater on the St. Paul road, on the Kansas City & Sioux City line, but the distances from Sioux City and Kansas City are greater. The main line to and from Omaha is fairly representative of the conditions. There are some differences, here and there, some inequalities of rate grading on account of shorter lines; but as nearly as I can figure it out—and I have tried to find the worst aspect as well as the best—South Omaha is a fair illustration of the whole situation with regard to the lines of the St. Paul Company.

Mr. HANSON: Mr. Bird, for the purpose of getting it into the record, I wish you would state briefly the rates on live stock and its product on March 31 and April 5, 1902—just what the situation was on those dates.

Mr. BIRD: Where from?

Mr. HANSON: From Missouri River points and from St. Paul to Chicago.

Mr. BIRD: The rates on the 31st of March and the 5th of April, 1902, were the same. From Kansas City and South Omaha to Chicago the rates on all classes of live stock were 23½ cents. From Sioux City the rate on cattle was from one to two cents
304 greater. I think it was 25 cents on cattle. On live stock originating in Kansas, Nebraska and points beyond, destined locally to Chicago, there was a percentage division of through rates, or a rate difference (commencing at St. Paul and running along the Missouri River, including Kansas City) which ranged from 14 cents to about 17 cents per hundred pounds. That represents the average rate received from these four packing points on live stock to Chicago.

Commissioner PROUTY: What do you mean by the differential—that the rates were so much higher to Chicago than to those points, or that the rate to Chicago was made up by adding that differential?

Mr. BIRD: Take Union Pacific business in connection with the St. Paul road. There are through rates from all Union Pacific stations to Chicago, and these through rates are divided upon a percentage basis. I took it in blocks of 50 or 100 miles, for a long distance, and found what that percentage yielded to the line east of the Missouri

River, or the price at which the line east of the Missouri River carried that stock to Chicago.

The CHAIRMAN: What the line east of the Missouri River got for hauling that stock?

Mr. BIRD: Yes, sir; and what the consignee paid the railroads for that service.

The CHAIRMAN: That was from 14 to 17 cents?

Mr. BIRD: Yes, sir.

Commissioner FIFER: On stock originating west of the river?

Mr. BIRD: Yes, sir.

Mr. HANSON: And what was the local rate—you omitted to state that—on packing house products from Sioux City to Chicago at these times?

Mr. BIRD: From Sioux City, Omaha, Kansas City, St. Joseph and Leavenworth the local rate on provisions to Chicago—pro-
305 visions of all kinds—was 28½ cents. The local rate from Missouri River points on live stock was 23½ cents. On packing house products from Missouri River points to Chicago, when destined East, they were covered by a through tariff which named the rates in every instance from Kansas City or Omaha to final destination, and the roads west of Chicago received 18½ cents as their proportion of that rate.

Mr. HANSON: Now, these rates that you now testify to, how long did they continue *to* force, and when did they change?

Mr. BIRD: The rate from Missouri River packing points to Chicago continued until the 30th day of June, 1902, with the exception that there were some modifications of the through rate on fresh meat and packing house products such as were necessary to conform to the changes demanded by the lines east of Chicago.

Mr. HANSON: What was done on the 1st of July, 1902?

Mr. BIRD: On the 1st day of July 1902, the rate on live stock, locally to Chicago, and on live stock products to Chicago was made 23½ cents. There was no change in the proportional or divisional rates on live stock from points west of the Missouri River. The 23½ cent rate on packing house products and fresh meats to Chicago also applied on business destined to points east of Chicago. There was no change at that time in the rates on live stock or its product from St. Paul to Chicago or to the east. That continued until the 8th day of August, 1902.

Mr. HANSON: Well, what was done at that time?

Mr. BIRD: On the 8th day of August, 1902, the rates on live stock products were reduced to 20 cents to Chicago.

Mr. HANSON: From what points?

Mr. BIRD: From Kansas City, Atchison, Leavenworth, and St. Joe to Chicago locally; and from the same points to Chicago on through business, the rate was made 18½ cents. On the 16th day of
306 August, 1902, the rates from South Omaha and Sioux City on live stock products were reduced to conform to the rates then applying from southwestern Missouri River points.

Mr. HANSON: Mr. Bird; why was the reduction made in rates on

packing house products and fresh meats at this time and not applied to live stock?

Mr. BIRD: The rate on the product was reduced because one of the lines thought it expedient to make that rate; and the rates on live stock were not reduced by the St. Paul Company because it believed that the rates on live stock were already too low, and that there was no obligation on the part of that company to make an unreasonably low rate to preserve a co-relation with rates which it did not establish.

Commissioner PROUTY: Who do you mean by which it did not establish?"

Mr. BIRD: Well, it did not institute the rate.

Commissioner PROUTY: It did not institute the 18½ cents rate. You said you did not feel obliged to maintain a co-relation of rates which it did not establish.

Mr. BIRD: I did not state my case as I should have done.

It did not feel obliged to maintain the previous evolution of rates, as it did not establish the lower rate on live stock products.

Commissioner PROUTY: I did not know but what you referred to the previous order of the Commission.

Mr. BIRD: No, sir; From the 1st of July the rates were the same on the two articles.

The CHAIRMAN: You meant simply, then, that you were not responsible for the reduction in the rate on dressed meats and packing house products that took place about that time?

Mr. BIRD: Originally and primarily, no, we were not.

Mr. HANSON: As an officer of the St. Paul Company in charge of its traffic, did you feel compelled to meet the rate on the product or go out of the business?

Mr. BIRD: There was no alternative. We had to meet it or go out of the business; I felt compelled to meet it. And while the
307 rate was lower than what I personally thought it should be, we considered it still yielded something over and above the incidental cost of the transportation of that particular business, and that if we failed to compete in the direction we would lose some other business which would yield us a profit over and above the cost of transporting the business and also probably affect westbound traffic that was much more valuable.

Mr. HANSON: You did not at the same time reduce the rate on live stock because you felt that the rates then were as low as they ought to be?

Mr. BIRD: Yes, sir. It was eight days later that we caused the rate from Omaha and Sioux City to be reduced to the same basis as Southwestern Missouri River packing points.

The CHAIRMAN: Your answer to a preceding question implied that you regarded the rates of 20 cents and 18½ cents on dressed meats and packing house products as unreasonably low. You may have testified already upon that point, but I would like to have you give in this connection your reasons for claiming that the rate on the product is unreasonably low.

Mr. BIRD: I do not think that the live stock product at that rate

pays a proper share of the general charge. The only reason I can see for a lower rate on provisions——

The CHAIRMAN: I do not ask you now to go into a comparison of rates as between live animals and dressed meats; but independent of the rate on live animals what are your reasons for claiming that the rate on the product is lower than it ought to be.

Mr. BIRD: I do not think it yields us sufficient revenue.

Commissioner PROUTY: While the published rate had been 23½ cents for ten or twelve years, the actual rate had not been much above 18½ and 20 cents, had it?

308 Mr. BIRD: Yes, sir; I think it was not through the year 1901, perhaps; the worst period of demoralization as to that traffic. But I do not admit that 18½ and 20 cents is as much as we had been getting before.

Commissioner PROUTY: You think you got more before that?

Mr. BIRD: I know it, so far as the St. Paul Company is concerned: I do not know about anybody else. When it got down to 22 or 23 cents on local business we thought it was a pretty low rate. There were times previous to 1901 when the rates were as low as they are now.

Commissioner PROUTY: Your line in this case did not take the initiative in reducing the packing house product rate?

Mr. BIRD: Not primarily at the Missouri River points, nor at any other place.

Commissioner PROUTY: You simply followed the action of another line?

Mr. BIRD: I beg your pardon; we followed the action of another line at Kansas City, but we anticipated it at Omaha.

Commissioner PROUTY: I suppose you felt obliged to put Kansas City and Omaha on the same basis?

Mr. BIRD: We were compelled to do that. There were other reasons than those which appear on the surface. Shortly following the reduction on provisions there was a very material reduction of the local rate on live stock from Kansas City and St. Joseph to Chicago, whereas the lines previously had seemed satisfied to keep rates on live stock and provisions on a parity. The live stock rate was reduced to less than the local rate on provisions; and that reduction was applied as a local rate and as the maximum at intermediate points. That affected a large part of that territory in Nebraska and Kansas from which the rates to Omaha, St. Joseph and Kansas City were the same and diverted the business in a large measure from the Omaha market.

309 Commissioner PROUTY: So you reduced the packing house rate from Omaha to meet the reduction in the live stock rate from the points which contribute live stock to those other Missouri River points?

Mr. BIRD: Yes, sir:

Commissioner PROUTY: Suppose you had taken the initiative in reducing the packing house rate; would you have felt justified in reducing that rate without reducing the live stock rate?

Mr. BIRD: I do not know what I would have done. I do not

think I would have taken the initiative. I am only speaking for myself. There may be conditions that would affect one line of railway that would not apply with equal force, and could not apply, to others. Conditions affecting or surrounding one road are vastly different from those of another road.

Commissioner PROUTY: Suppose conditions had induced you to reduce the rate—to take the initiative in reducing the rate on packing house products; would you have felt justified in doing that without making a corresponding reduction in the live stock rate?

Mr. BIRD: If I may be permitted to answer that in my own way, I would say this most emphatically; That if I had power to make the rates solely on the basis of what I thought they ought to be and what traffic could justly bear, I would have made the rate on provisions no lower than on live stock.

Commissioner PROUTY: This reduction of the rate up to Chicago, when it is a part of the through rate, is in reality a reduction of the entire through rate? The reduction of your rate from Kansas City to Chicago operates as a reduction of the entire through rate from Kansas City to the point of consumption, does it not?

Mr. BIRD: Those rates, were made, as I understand it, in order to arrive at what would be a fair, reasonable rate from
310 Kansas City to New York, and having reached that conclusion, the next question was to determine how that through rate should be divided as between the lines east and west of Chicago. Inasmuch as the lines east of Chicago occupy a curious position in respect to that particular traffic, the reduction had to come out of the lines west of Chicago.

Commissioner PROUTY: The reduction which you followed was a reduction by the Chicago Great Western line?

Mr. BIRD: In this case; yes, sir.

Commissioner PROUTY: And that reduction applied entirely, did it not, to traffic between Kansas City and Chicago?

Mr. BIRD: No, sir.

Commissioner PROUTY: What else did it apply to?

Mr. BIRD: From Kansas City and St. Joseph.

Commissioner PROUTY: From those Missouri River points to Chicago?

Mr. BIRD: Yes, sir.

Commissioner PROUTY: It had no reference to the rate east of Chicago, did it? That reduction in and of itself had no reference to the rate east of Chicago?

Mr. BIRD: I think it had.

Commissioner PROUTY: In what way?

Mr. BIRD: I think that the purpose was to establish a rate to Chicago locally and a reasonable through rate from the Missouri River to the Eastern seaboard.

Commissioner PROUTY: The tariff was filed by the Chicago Great Western road, I expect.

Mr. BIRD: Yes, sir.

Commissioner PROUTY: Did that tariff apply to any traffic except traffic between Kansas City and St. Joe to Chicago?

Mr. BIRD: I think it did.

Commissioner PROUTY: To what traffic did it apply?

Mr. BIRD: From the Missouri River to Chicago locally on the one part and from the Missouri River to Eastern points on the
311 other. There were two separate classes of business. One was local and the other through.

Commissioner PROUTY: Was the rate from Chicago, the division to Chicago or east of Chicago in any way changed?

Mr. BIRD: No, sir; they occupy a position in respect to live stock and live stock products essentially different from their position in reference to other traffic on which they make their rates from Chicago with reference to the origin of the traffic.

Commissioner PROUTY: So that in point of fact that was a reduction from St. Joe and Kansas City to Chicago?

Mr. BIRD: I do not regard it so. I think every initial road on the Missouri River is under obligation to make a rate, for instance, from Kansas City to New York, that is just and reasonable, and when they have determined in their own mind what that rate ought to be to New York the next question is, how can we divide that rate? To what extent will our connections join us in applying that rate? If they hold up to the arbitrary basis of local rates, there is nothing to do but shrink the difference. Under ordinary circumstances applying to through traffic, the lines east of Chicago accept less from Chicago to New York than they charge from Chicago locally.

Commissioner PROUTY: But you say in this particular case they do not?

Mr. BIRD: In this case they do not; in the matter of live stock and its products.

Commissioner PROUTY: Before the reduction, the rate at that time from Chicago to New York was 25 and 30 cents?

Mr. BIRD: I think it was about that.

Commissioner PROUTY: And it remained just exactly the same after the reduction by the Chicago Great Western as before did it?

Mr. BIRD: Yes, sir.

Commissioner PROUTY: The reduction by the Chicago Great Western from Kansas City to Chicago reduced in effect the en-
312 tire rate, of course, from Kansas City to New York, and that necessarily compelled a corresponding reduction by other lines, but the action which induced that was simply a reduction in the rate from Kansas City to Chicago, was it not?

Mr. BIRD: The reduction in the rate which was applied on through business; yes, sir:

Commissioner PROUTY: And what you did was to meet that reduction from Kansas City to Chicago?

Mr. BIRD: Yes, sir; we had to. We tried to get the lines east to divide that rate on a different basis, but they refused to do it.

Commissioner PROUTY: Although you published a rate applicable to business through Chicago it was in effect a reduction in the rate from what it had been, of the local rate from Kansas City to Chicago?

Mr. BIRD: It was a burden which we thought was unjustly put upon the lines west of Chicago if the through rate had to continue (from Kansas City to New York). The question was, how could we divide it. They refused to divide it upon a pro rata basis.

Commissioner PROUTY: You do make a local rate from Kansas City to Chicago of 20 cents. Do packing house products actually move on that local rate to Chicago?

Mr. BIRD: Yes, sir:

Commissioner PROUTY: And they are consumed here in Chicago?

Mr. BIRD: Yes, sir; in this district around here. I should say there are a half a dozen cooling houses or store-houses between here and Evanston on the St. Paul Company's line for that business.

Mr. HANSON: And which business takes the local rate?

Mr. BIRD: Yes, sir.

313 Commissioner PROUTY: There is an actual local rate upon which traffic moves to Chicago?

Mr. BIRD: Yes, sir; there is a substantial amount of business which moves on that rate.

The CHAIRMAN: It all comes to this, then, that the lines east of Chicago get just as much now as they did before this reduced rate which you have been speaking of took effect?

Mr. BIRD: Yes, sir.

The CHAIRMAN: The entire reduction had to be borne by the lines between the Missouri River and Chicago?

Mr. BIRD: Yes, sir.

The CHAIRMAN: And that reduction was initiated by the line and under the circumstances already described in Mr. Stickney's testimony.

Mr. BIRD: At Southwestern Missouri River points.

Commissioner PROUTY: I want to ask you in this connection whether the first tariff filed by the Chicago Great Western road was a local tariff of 20 cents and a through tariff of 18½ cents, or was it simply a through 18½ cent tariff?

Mr. BIRD: It was a tariff of 20 cents locally into Chicago, and a minimum proportion of through business of 18½ cents. That is my recollection. It is on file with the Commission.

Commissioner PROUTY: Suppose the Chicago Great Western road when it put in that tariff had put in a corresponding rate on live stock; would you have felt obliged to meet the live stock rate also?

Mr. BIRD: No, sir; not by reason of any rate made from the Missouri River. If the Great Western had reduced its rate on live stock at the same time the same as on the product, in the course of time we might have been compelled, in some parts of the territory, to make some revision of our live stock rates, whenever we

314 were in direct competition perhaps, but in a comparatively limited area.

Commissioner PROUTY: So that if the Great Western road were ordered to reduce its live stock rates to correspond with its packing house product rates, that would not of necessity affect your live stock rates?

Mr. BIRD: I will have to examine the map very carefully before

I undertake to answer that question. It would depend not so much on what the Great Western might do as upon what some other roads would do to meet the action of that road and what we would be obliged to do in consequence of the action of those other roads. It grades up, you know, and overlaps,—one line laps over another and that into another and so on, and doubtless I should say it would effect a reduction of live stock rates as far north as Aberdeen, in South Dakota.

The CHAIRMAN: That is, whereas as between your road and the Great Western it might not be necessary to reduce your live stock rate except at a very few places——

Mr. BIRD: Except at a few places.

The CHAIRMAN: That reduction by the Great Western might——

Mr. BIRD: I would like to add that the Great Western, as I understand, will soon be completed, and in operation, to Sioux City and Omaha. That would change the situation very materially.

The CHAIRMAN: If I understand you, you mean this, that while if the Great Western had reduced its live stock rate you might not have been obliged to make a corresponding reduction except at a very few places——

Mr. BIRD: Comparatively few.

The CHAIRMAN: That action by the Great Western might have forced reductions by some other line?

Mr. BIRD: Yes, sir.

The CHAIRMAN: And then by another line; so that to meet
315 the resulting reductions by various other lines you would sooner or later be compelled to reduce your live stock rates?

Mr. BIRD: It is the old story; if you knock down the first brick in the row you knock them all down.

The CHAIRMAN: To go back to the other point, Mr. Bird. When you say that the present dressed meat and packing house product rates are too low, that that traffic does not bear its just share of the transportation tax, do you mean that that traffic, considering its nature, value, volume, and uses, is carried at less rates than other merchandise and food articles generally?

Mr. BIRD: I can not answer that question, for I do not know of any other food articles which furnish a basis of comparison.

The CHAIRMAN: You answered the former question a few moments ago by simply saying you did not think it paid its fair share of the general transportation charge. What do you mean by that, exactly?

Mr. BIRD: When you compare the rates on live stock with rates on live stock products and take into account the cost of handling the business and nothing else, I do not think that there is much difference, and if cost only is to be considered the rate on the product may be lower than on the live animal. But to illustrate it: There are many articles classified as first class which are no more difficult to handle and which can entail no greater loss than many other articles in the second class, and that is true of each class descending; but there is no reason why first class articles should not be charged more than second class. We must haul the products of the soil and forest

as low as possible, consistent with reasonable profit, because the rate per hundred pounds, or per ton, on such business is a large factor in determining its value at the point of consumption. It makes very little difference whether the rate is $1.00 or $2.00 a hundred
316 on the common Derby hat; you can hardly figure the added cost to the hat of that rate; and so in my judgment the added charge should be laid where it will be felt the least. That is the justification for the first, second, third, fourth and fifth class; and in that sense only I mean that packing house products might well stand a higher charge than the live animal.

The CHAIRMAN: I do not want to draw you now into a comparison of the two rates, but I want to get your estimate of the reasonableness of the rate on the product as compared with other transportation charges.

Mr. BIRD: Well, if you compare it with the transportation charge on live stock and take into consideration the relative cost of carrying those two articles, I do not think there is any reason to object to the provision rate. I think it costs fully more to carry live stock than live stock product.

The CHAIRMAN: If I understand you, then, regarding transportation as a tax, that it ought to be applied more or less in proportion to the value of the article carried, and that on that theory dressed meats and packing house products at the rates in question do not pay their just share of that tax?

Mr. BIRD: That is my view of it.

Commissioner PROUTY: Has this traffic been what you call highly competitive traffic in the past?

Mr. BIRD: Exceedingly so.

Commissioner PROUTY: The parties who had that traffic to offer for transportation were so situated that they could get as low a rate on that as anybody could get on anything?

Mr. BIRD: Well, judging by the record; yes, sir.

Commissioner PROUTY: Now, you have carried grain from Kansas City to Chicago for from 5 to 7 cents per hundred pounds at times, have you not?

Mr. BIRD: No, sir.

Commissioner PROUTY: Some other lines have.

317 Mr. BIRD: From the Mississippi River perhaps.

Commissioner PROUTY: From Kansas City to Chicago, from the testimony before the Commission, grain was carried during the larger part of the summer of 1901 at not much above 7 cents per hundred pounds.

Mr. BIRD: I believe that is right.

Commissioner PROUTY: It rather appears that the rate on packing house products has never got down much below 16 or 17 cents. How do you account for the fact that it has not gone much below 16 or 17 cents?

Mr. BIRD: I think the rate on corn of 7 cents to Chicago, considering the load which the car will carry and the manner in which it may be hauled, time, etc., and the fact that the car is loaded both ways and used for nearly all kinds of business, perhaps the net re-

sult, when you come down to a basis of cost; is quite as good in one case as in the other; and I think the present rate on dressed meat and packing house products is so low and so near the cost mark that railroad people feel that they cannot safely go any lower; that they would be carrying the traffic below cost.

Commissioner PROUTY: Does that not show that 16 or 17 cents is pretty near the limit of cost of packing house products?

Mr. BIRD: I think that is pretty close to the cost mark.

The CHAIRMAN: Mr. Bird, I intended to ask you a question later on, but some of your answers have brought it to my mind and suggest that it might be asked now. You have had large experience with the business in this Western territory, and something you have said implies a belief on your part, or an opinion, in respect to the proper relation of rates as between the live animals and their products. Now, I want to know what is your judgment as to the just and fair relation of rates as between the live animals and
318 their products, and the reasons for your opinion. I mean to ask the question in the broadest possible way, without reference to the situation or interests of your line or any other particular line.

Mr. BIRD: I do not think I can give an intelligent or reasonable opinion as to the exact relation, or as to the approximate relation there should be between the live animal and the product. The cost of transportation is necessarily an element in determining these differences, but I do not think that the cost of transportation should fix the difference between the different articles carried by the railroad companies.

Mr. HANSON: In all cases.

Mr. BIRD: In all cases, no. I can only go back to that old phrase, that the traffic should be taxed what it will bear, and that the tax should be laid where it will be least felt and in adjusting taxes on that basis that traffic of higher values can well afford to bear the greater rate than property of a very low character or a very low price. I do not think there is any material difference, or ascertainable difference, between the cost of carrying a ton of third class freight and a ton of first class freight; there may be some little difference; but you can hardly determine what it is. Still no one doubts the propriety of charging first class goods more than third class; and I think that answers the question. The higher class property is the property that will bear the highest rate. When you carry the live animal you are charging for some portion of the animal that goes to waste.

Commissioner FIFER: They are commodity rates, are they not?

Mr. BIRD: The rate on packing house products was originally a class rate, but that was before there was any such industry in this country. You find "cattle" in the classification, but it says "See cattle rates."

319 The CHAIRMAN: If I understand your answer to my question, you mean the rate on the product should be higher than the rate on the live animals.

Mr. BIRD: I think so; I think that is a matter of economy and successful business operation.

The CHAIRMAN: Speaking not with reference to the interest of a particular line, but regarding it as a broad question of public interest and of the largest application—the charges which the public has to pay—you say that the rate on the product ought to be higher than the rate on the live animals?

Mr. BIRD: I think the public can afford to pay a higher rate.

The CHAIRMAN: Then you think it ought to be higher?

Mr. BIRD: Yes, sir; as high at least; that is, without regard to the relative cost of transportation; if you take that and nothing else into consideration it changes the aspect of the case somewhat.

Commissioner FIFER: The cost of carriage of packing house products is more than of live animals?

Mr. BIRD: No, sir; I believe it costs a little more, if anything, to carry live stock than it does the live stock products loaded to the maximum capacity in refrigerator cars.

The CHAIRMAN: Do you desire to add anything by way of further reasons for the opinion you have expressed?

Mr. BIRD: Where tariffs have been made without regard to competition, but with the design of making a just tariff, rates per ton per mile are graded gradually down as the distance increases and the co-relation of rates of the various classes are preserved, as in the Minnesota tariff which has been referred to so often. I find that in that tariff the rate on live stock, for example, is a greater percentage of the first class rate than in any of the tariffs which have been made in such States as Illinois and Iowa, the latter made largely under political pressure. That relation in Minnesota between first, second, third, fourth, and fifth classes is quite different from the relation which exists in rates in Iowa and in Illinois, and I believe they are justified by the conditions. I believe that tariff was constructed under proper care, and the result is that it is the best that has been found in the Northwest, the second, third and fourth classes being a certain percentage of the first class. It places the rate on live stock nearer the first class than any of the so-called Granger tariffs. This is what I have in mind when I say that if free from competition and other compelling forces I would, if left to my own judgment, make the rate on dressed beef and packing house products higher than the live animal; certainly not any lower.

320

Commissioner FIFER: There was a time when packing house products took the class rate.

Mr. BIRD: Yes, sir; it is in the classification now.

Commissioner PROUTY: East of Chicago they take a class rate now.

Mr. BIRD: That is hardly a fair comparison. The class to which they assign them is one of the lowest rates in the classification, the fifth class, and the fifth class in the Western Classification bears quite a different relation to the general traffic. We have classes 1, 2, 3, 4, 5, A, B, C, D, and E—ten or eleven classes, besides tariffs on coal and cattle, and various other things, and you can hardly com-

pare the classification rates east of Chicago with the Classification rates west of Chicago. They are radically different.

Commissioner PROUTY: It comes to this, then, that your only reason for making a lower rate on the product than on the live animal is the action of your competitors?

Mr. BIRD: That is true.

Mr. HANSON: Given the factor that the rate on packing-house products is fixed beyond your control to change it, and if you were adjusting the rate on the live animal on the basis of cost,
321 what rate would the live animal take in comparison with the fixed rate that you cannot change on the product?

Mr. BIRD: My belief is that they are not far apart today from what they should be, not different from what they should be. I believe there is just as much profit, and I believe a little more profit—if you take those two articles alone into consideration—in carrying the manufactured product as the live animals on the basis of existing rates.

Mr. HANSON: So the existing rates between the Missouri River and Chicago on the live animal fairly represents the spread in the cost of transportation?

Mr. BIRD: As near as I can figure it.

Mr. HANSON: Now, to get back to another matter that we were considering. You stated that the Santa Fe, I think, in the early part of August put in a 12 cent local rate on live stock from Kansas City to Chicago. How long did that local rate continue in effect—up to about what date?

Mr. BIRD: I do not remember.

Mr. HANSON: Do you know, Mr. Tomlinson?

Mr. TOMLINSON: January 1st, 1903, the Santa Fe advanced its rate to 18½ cents. Will you ask Mr. Bird why they advanced it.

Mr. HANSON: I don't know.

Mr. BIRD: Neither do I. The reasonable supposition is that they thought 12 cents was too low.

Mr. HANSON: Mr. Biddle testified in this hearing that the rate of 12 cents per hundred pounds on live stock from the Missouri River to Chicago pays the Atchison road as much in the gross as the 18½ cent rate pays for the transportation of fresh meat, and therefore he justified putting in the 12 cent rate. What has Mr. Biddle done since he testified?

322 Mr. BIRD: He advanced the rate to 18½ cents.

Mr. HANSON: How soon did he advance it?

Mr. BIRD: I cannot state the exact date; it was about the first of January, this month.

Mr. HANSON: And it was taken out on the 1st day of January, 1903?

Mr. BIRD: Yes, sir.

Mr. HANSON: Now, what effect, Mr. Bird, did this low local rate from Kansas City to Chicago have in increasing the Santa Fe's shipments on live stock over the amount of their shipments prior to that reduction to 12 cents? I think this shows it, Mr. Bird (handing paper to witness).

Mr. COWAN: I shall object to that. There ought to be better evidence than Mr. Bird's knowledge on that subject.

Mr. BIRD: I have taken this information from the Statistical Bureau of which the Santa Fe is a member.

The CHAIRMAN: That seems to us proper.

Mr. BIRD: This statement which I have prepared dones not cover the entire period because the statistics are made up by weeks, from the 15th of August to the 31st of August, for the month of September, the month of October, November, and from the 1st to the 21st of December, taken from the statistics of the Freight Bureau or the Statistical Department. This is by tons. In 1901 the total tons of live stock carried by the Santa Fe was 10,061 tons. For this period of August 15th to December 21st 1902, it was 20,917 tons. Now, upon the application of the local rate of 12 cents by the Santa Fe, two other roads, and possibly later one other, put in a rate of 12 cents as a proportional rate from Southwest Missouri River points to Chicago on live stock coming from trans-Missouri territory. The St. Paul did not meet that rate at any time or put in a proportional rate or reduce any live stock rate. The total for the period mentioned of live stock shipped over all the lines in 1901 from August 15th, to December 21st, was 78,317 tons. During this period of

323 EX. TO MR. BIRD'S TESTIMONY. See p. 343, Testimony.

Chicago, Milwaukee & St. Paul Railway Company, Office of Third Vice President, Chicago.

(Copy.)

JANUARY 13*th*, 1903.

Memorandum.

Showing rates on livestock and its product upon various dates named, March 31st and April 5th, 1902.

From Kansas City, South Omaha and Sioux City, live stock to Chicago locally 23½ cents; fresh meat to Chicago locally 23½ cents; packing house products to Chicago locally 23½ cents.

Live stock originating in Kansas, Nebraska and points beyond, destined locally to Chicago, between Missouri River and Chicago, a percentage division of the through rate, averaging 17½ and 18½ cents per 100 pounds. (Note.—These divisions of through rates have continued until the present time.)

Packing house products and fresh meat from Missouri River points to Atlantic Coast, and other points east of Chicago, were covered by through tariff (I. C. C. 284) which provided through rates to each eastern destination shown in said tariff. The share of each through rate which accrued to the lines from the Missouri River to Chicago was 18½ cents per 100 pounds. This through tariff continued in effect until June 30th 1902. It was modified in one or two instances

to meet changes in rates required by eastern connections, but the proportion received by western roads remained at 18½ cents.

All the foregoing rates from the Missouri River continued in effect up to June 30th 1902. On July 1st, 1902, the follow-
324 ing rates became effective:

On live stock, Missouri river to Chicago, 23½ cents.

On fresh meat, Missouri River to Chicago, 23½ cents.

On packing house products, Missouri River to Chicago, 23½ cents.

These rates applied to Chicago regardless of destination beyond, and continued in effect until August 8th 1902, when in consequence of a contract made by the Chicago Great Western with the Missouri River Packers the following rates went into effect:

From Southwest Missouri River points to Chicago locally, fresh meats and packing house products, 20 cents; to Chicago, when destined east thereof, 18½ cents. There was no change in the proportional or local rates on live stock.

The last named rates on fresh meat and packing house products were made effective from South Omaha and Sioux City August 16th. No change in live stock rates.

Rates from South St. Paul (March 31st and April 5th, 1902) to Chicago locally were:

Packing house products, 18½ cents.

Fresh meat, 20 cents.

Cattle, 25 cents.

Hogs and sheep, 27 cents.

Proportional rate on hogs from beyond St. Paul to Chicago 17½ cents.

On packing house products destined New York, 13½ cents.

On fresh meat, destined New York, 15 cents.

325 These rates from South St. Paul continued in effect until August 21st, 1902, at which time the Wisconsin Central established the following rates:

Packing house products, destined east, 14.6 cents.

Fresh meat, destined east, 15.7 cents.

Packing house products, to Chicago locally, 15.7 cents.

Fresh meat, to Chicago locally, 17. cents.

The C. M. & St. P. adopted these rates September 9th, 1902.

It will be observed that from July 1st to August 8th the rates on live stock and all live stock products, shipped locally from Missouri River to Chicago was 23½ cents, and that there were no proportional rates applying on business to points east of Chicago, but at the same time the rate on live stock locally from St. Paul to Chicago was greater than the rate on fresh meat or on packing house products, and the reason why there was no revision at St. Paul on July 1st to correspond with the revision made from the Missouri River was the issue raised by the Railroad Commissioners of Minnesota. The facts in the case were reported verbally to the Interstate Commerce Commission.

326 the reduction in the rate it was 113,314 tons; showing an increase of 34,997 tons. Of that increase the Santa Fe's increase was 10,856 tons, or a little bit less than one-third of the total increase by all lines.

Mr. HANSON: About one-third of the increase by all the lines?

Mr. BIRD: Yes, sir.

Mr. HANSON: To return to the rate from South St. Paul to Chicago on the 5th of April, will you briefly state what the rate was on live stock and its products on that date?

Mr. BIRD: The rates from South St. Paul on the 31st of March and the 5th of April, 1902, were the same; Packinghouse products 18½ cents; fresh meats 20 cents; cattle 25 cents and hogs and sheep 27 cents. On packing house products destined to New York, 13½ cents; fresh meat, destined to New York, 15 cents. These rates continued from South St. Paul until the 21st of August, 1902, at which time the Wisconsin Central established the following rates: Packing house products destined East, 14.6 cents; fresh meat, destined East 15.7; packing house products, to Chicago locally, 15.7 cents; and fresh meat, 17 cents. These rates were established on the 21st of August by the Wisconsin Central and on the 9th of September were adopted by the Chicago, Milwaukee & St. Paul Company. There were no changes made in the rates on live stock.

Mr. HANSON: I will have this paper marked "Exhibit No. 1, to Mr. Bird's testimony," and introduce it in connection with his testimony.

(The same is hereto annexed and marked "Exhibit No. 1" to Mr. Bird's testimony.)

Mr. HANSON: (Handing paper to witness.) Mr. Bird, state briefly what this is?

Mr. BIRD: The statement has been made by the other side that the rate on live stock is in itself too high—too high *per se*—and I have undertaken to show that live stock is not paying its just share
327 of the general charges according to the information I have been able to obtain from experts in the business by direct conference. A carload of harvesting machines is worth about $1600. and the rate between Dawson, Iowa and Chicago is 29 cents. I have used Dawson for reasons which I have already given. Based on 25,000 pounds, which is about what that class of machinery will load in an ordinary car, the revenue is $72.50. It is about 4½ per cent. of the value of the products. That is the rate relation to the value of the property transported. I have undertaken to show that if livestock is the raw material for the packer, hay and corn are the raw material of the steer, and if you take the rate on a carload of that grade of corn which is usually fed and compare it with the value, you will find that it is $68. as compared with $404. or 16.8 per cent of the value of the product. Hay, another item of raw material for beef is worth about $200. a car according to the current market value during September. The rate is 17½ cents. It pays $70. a car. The transportation charge is 35 per cent. of the value. Taking cattle, the valuation of a carload is about $1456. and the rate from the point I have mentioned to Chicago is 23½

cents, which yields $51.70, or 3.54 per cent. of the value of the property transported. If the Commission will permit me later on I will give figures showing the relative cost of transportation of cattle and these articles. This statement takes certain articles of about the same value as live stock, or as near as I can find to correspond, and shows the percentage relation which the rate bears to the value of the article transported. The result is that agricultural implements will pay 4½ per cent; mowers, which load heavier, 6.45 per cent.; common brick, upon which the rate is very low 93¼ per cent. of the value of the product, and it is actually used and being paid; eastern soft coal, carried from Chicago to Dawson at a rate of about one-half of one cent per ton mile, a very low rate—lower than the average rate—based upon valuations taken last September and not
328 the high values that prevail to-day the rate is 58.3 per cent. of the value of the product; from which I submit that live stock is not paying its just share of the transportation charges.

The CHAIRMAN: You speak of the value of the product in each case at destination or at the consuming market?

Mr. BIRD: Yes, sir.

Mr. TOMLINSON: I will ask if there is any soft coal moved from Chicago to Dawson?

Mr. BIRD: There is a great deal of soft coal moved to western Iowa and to Omaha. If I had made the comparison on Omaha where that coal is consumed, it would have shown the same relative results.

Mr. TOMLINSON: Is there any coal shipped there now?

Mr. BIRD: A little of inferior quality. It does not come into competition with eastern soft coal.

Mr. HANSON: I now offer Exhibit No. 2 to Mr. Bird's testimony.

(The same is hereto annexed and marked "Exhibit No. 2 to Mr. Bird's testimony.)

Mr. HANSON: I now hand you exhibit No. 3. You may state as briefly as you can what this statement is.

Mr. BIRD: I have had prepared under my immediate supervision and given time to it myself an analysis of the freight train service over one division of the road entering Chicago, that division which is best able to handle a large volume of traffic on a minimum of expense—the most favorable division of the St. Paul road to handle freight over.

Mr. HANSON: What division is that?

Mr. BIRD: The Chicago & Milwaukee Division. There were 350 trains taken within a given period the month of September. There were 223 trains of ordinary dead freight moved from Milwaukee to Chicago in 8 hours and 2 minutes, on the average. The average train tonnage was 1436 tons. There were 59 straight trains of live stock.

Mr. HANSON: Nothing but live stock in the train?

Mr. BIRD: No, sir; and 25 other trains of live stock and

329 Ex. 2 to Mr. Bird's Testimony. See P. 346, Test.

Statement Showing Values and Rates on Cattle, Hogs, and Other Commodities Between Dawson, Ia., and Chicago.

Values and Rates During September, 1902.

	Values per carload.	Rates.	
		Per 100 lbs.	Per carload.
Agricultural Implements:			
Harvesters and Binders	$1600.	29.	$72.50
Mowers	$1125.	29.	$72.50
Brick	$800.	14.	$56.00
Cattle	$1456.48	23½	$51.70
Coke	$800.	11.75	$47.00
Corn, No. 3, yellow	$1048.	17.	$68.00
Hay	$800.	17½	$70.00
Hogs	$1193.40	23½	$39.95
Lumber	$800.	13.	$52.00
Nails	$800.	19.	$76.00
Soft Coal, eastern	$800.	$.75	$35.00
Wheat	$868.32	20.	$80.00

Basis of Calculation.

Cattle	22,000 lbs. per carloads.
Hogs	17,000 lbs. per carload.
Agricultural Implements	25,000 lbs. per carload.
Other Commodities	40,000 lbs. per carload.

[Endorsed:] Comparison of rates and values Various Commodities.

330 other freight mixed. The dead freight averaged 49.8 cars to the train. Straight live stock trains averaged 28 cars to the train with an average train of 732 tons, about one-half what we carried in the dead freight trains. The mixed stock trains averaged 28.8 cars to the train and the tonnage averaged 795 tons. You get more tonnage of dead freight over the same number of wheels than you can of live stock. The trains which are run at the highest rate of speed, second only to live stock trains, carrying merchandise to the far north west, averaged 1108 tons.

Mr. Hanson: What was the average time?

Mr. Bird: Five hours and 54 minutes; and the live stock trains 3 hours and 37 minutes.

Mr. HANSON: The live stock trains were run faster than your fast freight?

Mr. BIRD: Yes, sir. There were 25 way freight trains in that month, stopping along at different stations. Their average was 1021 tons. I want to say in explanation of that, if you please, that the live stock is loaded at as convenient an hour for the shipper as is consistent with the necessary running of the trains and the live stock train is run with a view of reaching this market in the early morning hours.

Mr. HANSON: I now offer Exhibit No. 3.

(The same is hereto annexed and marked "Exhibit No. 3 to Mr. Bird's testimony.")

Mr. HANSON: Mr. Bird, is there an expense chargeable solely to the transportation of live stock from local stations in the way of stock yards, weighing scales, water conveniences, etc., that is not chargeable to any other class of traffic?

Mr. BIRD: There are material expenses chargeable to live stock only.

Mr. HANSON: To live stock shipped from local stations largely, is it not?

Mr. BIRD: Altogether so.

Mr. HANSON: Can you state to the Commission about what the investment is of the St. Paul company in these local stock

331 EX. 3.—MR. BIRD'S TESTIMONY.

(See p. 348, Testimony.)

Statement Showing Number of Trains Run, Class, Average Cars to Train, Time, and Tonnage, Eastbound, during Month of September, 1902.

C. & M. Div.

Class.	Number of trains run.	Average cars to train.	Average time.	Average tonnage.
			Hrs. Min.	
Dead freight.....	223	49.8	8 02	1436
Straight stock.....	59	28.	3 37	732
Mixed stock.....	25	28.8	3 49	795
Time freight.....	18	38.8	5 54	1108
Way freight	25	41.4	15 53	1021
Total and average..	350	43.4	7 26	1225

[Endorsed:] Average tonnage of various freights and trains.

332 yards?

Mr. BIRD: The investment in yards, paving, etc., water power, water supply, scales for weighing—I have taken considerable pains to get at the average cost of the country yards.

Mr. HANSON: The average cost at each station?
Mr. BIRD: Yes, sir.
Mr. HANSON: What do you find it to be?
Mr. BIRD: About one thousand dollars.
Mr. HANSON: How many of those stations have you at which there are stock yards averaging that cost?
Mr. BIRD: About a thousand.
Mr. HANSON: About a thousand stations?
Mr. BIRD: Yes, sir.
Mr. HANSON: Have you investigated the annual cost of maintaining those stations?
Mr. BIRD: As near as I can ascertain from the men in charge and the reports made by them it is about equal to 10 per cent., or one hundred dollars.
Mr. HANSON: That is one hundred dollars per station?
Mr. BIRD: Yes, sir.
Mr. STICKNEY: The investment is a million dollars and the annual expense about one hundred thousand dollars?
Mr. BIRD: Yes, sir.
Mr. HANSON: I will now call your attention to Exhibit No. 4. You may state very briefly what that statement is.
Mr. BIRD: This (referring to Exhibit No. 4) is a statement showing the actual loading tonnage and weights of cars of hogs, cattle and their products, taken from actual operations in the month of September.
Mr. HANSON: Why did you take September?
Mr. BIRD: Well, it was first used in testimony, I think, by Mr. Stickney and I wanted our data made up for the same month.

333 EX. 4.—MR. BIRD'S TESTIMONY.

See p. 351, Test.

Statement Showing Weights of Cars and Contents.

	P. H. P.	Fresh meat.	Hogs.	Cattle.
Actual loading	32,398	22,129	16,937	22,714
Weight of car	37,000	37,000	27,100	27,100
Total weight hauled	69,398	59,129	44,037	49,814

[Endorsed:] Average weights of cars and contents.

334 *Statement Showing Shipments of Live Stock from Kansas City, Leavenworth, Atchison, and St. Joseph, from August 15th to December 21, 1901, and 1902.*

	Shipments via A., T. & S. F. Ry., 1901.	Total, 1901.	Shipments via A., T. & S. F. Ry., 1902.	Total, 1902.
Aug. 15th to 31st.....	1,396	13,267	1,691	20,417
September	3,569	27,656	6,533	34,259
October.....	3,950	21,281	7,623	35,785
November	590	8,966	2,999	14,724
December 1st to 21st	556	7,147	2,071	8,129
Total	10,061	78,317	20,917	113,314
Increase	.....	.....	10,856	34,997

335 Mr. HANSON: For that reason?

Mr. BIRD: Yes, sir. The actual loading was, on packing house products 32,398 pounds per car; on fresh meats 22,129 pounds; on hogs 16,937 pounds, and on cattle 22,714 pounds. The weights of the cars, taken from an actual examination for the month were, packinghouse products and fresh meat cars 37,000 pounds, and hogs and cattle cars 27,100 pounds.

Mr. HANSON: I will offer that in evidence.

(The same is hereto annexed and marked "Exhibit No. 4 to Mr. Bird's testimony.")

Mr. HANSON: Mr. Bird, I now hand you Exhibit No. 5 and ask you to state briefly to the Commission what it is.

Mr. BIRD: It is a statement showing receipts of cattle, hogs and sheep in Chicago over the Chicago, Milwaukee & St. Paul Railway from points on the Chicago & Council Bluffs Division in Iowa and a comparison of revenues derived from the transportation of that live stock with the commissions of the Chicago Live Stock Exchange.

Mr. COWAN: If the Commission please, I object to that. It looks to me, from the little experience I have had in law, like folly to introduce before the Commission, or anybody else anything in relation to the commissions charged. They may charge immensely too much. It may be the worst character of trust, but it cuts no figure in this case. Why encumber the record before a body as intelligent as this with any such stuff? I cannot see any reason for it. If we are going into it, we should go into the merits of it. We object to it as absolutely irrelevant to anything involved in the proceedings.

Mr. HANSON: It is admissible, if the Commission please, upon this theory, if at all, that you can only get at the reasonableness of anything by comparing it with something else. We are comparing what we are earning here on the transportation of this live stock with what this Live Stock Exchange get out of it for selling it. The same live stock that we transport, they sell, and this shows their business for one month and our business for one month, and on that ground I

336 Ex. 5, Mr. Bird's Testimony. See P. 353, Testimony.

Receipts of Cattle, Hogs, and Sheep in Chicago over C., M. & St. P. Ry. from Points on the C. & C. B. Division in Iowa, and Comparison of Revenue on Same, with Commissions of Chicago Live Stock Exchange, Month of September, 1902.

	Number of cars.	Number of head.	Revenue received by C., M. & St. P.	Average revenue per car.	Commission Chicago Live Stock Exchange.	Percentage commission to C., M. & St. P. revenue.
Cattle	88	1848	$4095.71	$46.54	$924.00	22½ %
Hogs	121	7865	$4216.35	$34.85	$1210.00	28.7%
Sheep	7	1400	$171.20	$24.46	$70.00	40.8%
Total	216	11113	$8483.26	.....	$2204.00	26 %

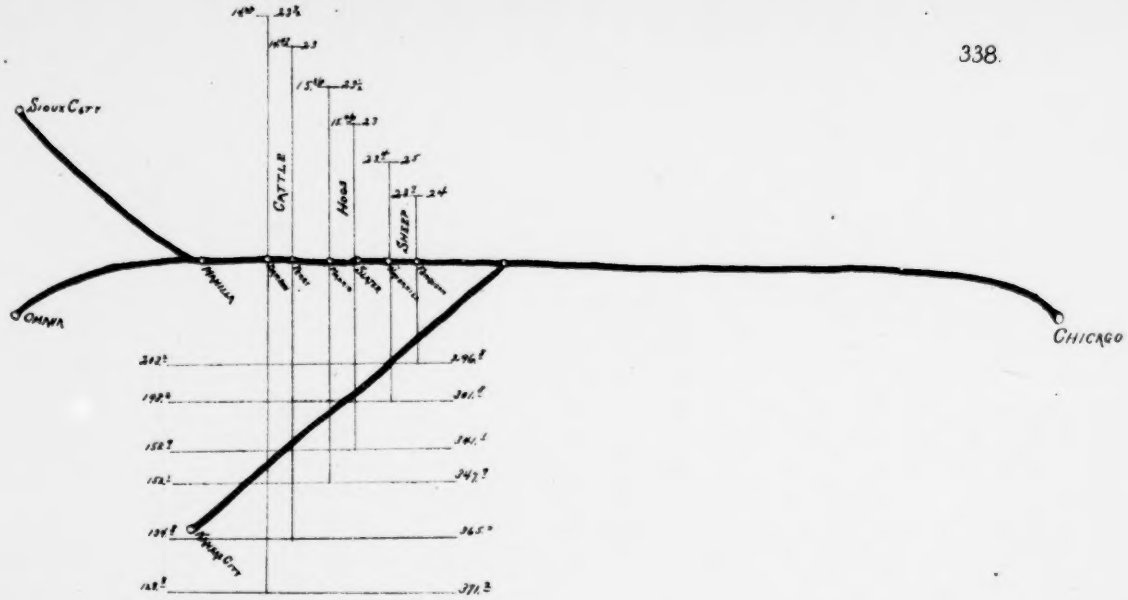
[Endorsed:] Receipts of live stock. Comparison of freight revenue with commissions.

337 *Statement of Tonnage of Live Stock Forwarded from Points on Main Line of the C. & C. B. Division in Iowa to Chicago During September*, 1902.

	Cars.	Pounds.	Average per car.
Cattle	88	1,998,900	22,71[illegible]
Hogs	121	2,049,400	16,937
Sheep	7	74,000	10,571

[Endorsed:] Tonnage of live stock forwarded from points on C. & C. B. div. in Iowa during Sept., 1902.

(Here follows diagram marked p. 338.)


Sioux City
Omaha
Peoria
Chicago
Kansas City
Cattle
Hogs
Sheep
Slater
Dexter

339 (Copy.)

State of Minnesota.

Office of
Railroad and Warehouse Commission.

SAINT PAUL, *May* 19, 1902.

A. C. Bird, Esq., Third V. P., C. M. & St. P. Ry., Chicago, Ill.

DEAR SIR: We notice in the Railway Age that the Interstate Commerce Commission recently met in Chicago and heard a complaint filed by the Chicago Live Stock Exchange complaining that the local rates on live stock from many points in Minnesota, Iowa and Missouri, to Chicago are in excess of the proportional rates from the Missouri River points to Chicago, on dressed beef, and that Chicago is being injured as a livestock market, and that the railroad companies interested have asked an extension of time, so as to adjust their present tariffs on livestock and dressed beef:

This Commission desire to call your attention to the fact that when the rates on livestock were recently readjusted from points in the southwest portion of this State, to St. Paul, it was the general understanding with the various railroad companies represented at that meeting, that the rates into Chicago from those points affected by the readjustment were not to be interfered with, as it would lead to a further investigation on our part.

We do not wish in any manner to be understood as interfering with interstate business, but desire to express the hope *the* in adjusting the livestock rates into Chicago, from Minnesota points, that a
340 corresponding reduction be made into St. Paul; otherwise, it will necessitate a further examination by us in this matter, which is to be avoided, if possible, in view of the fact that the present rates appear so far to be perfectly satisfactory to all parties interested.

An early reply will greatly oblige.

Yours truly,

For the COMMISSION,
Per T. YAPP.

341 *Statement of Tonnage of Fresh Meats and Packing House Products Forwarded from Points Named Below to and via Chicago, During September*, 1902.

To and via Chicago. From	Total number of cars.	Straight carloads. Fresh meats.			Straight carloads. Packing house products.			Mixed carloads. Fr. meats, P. H. P. & other freight.		
		Number of cars.	Pounds.	Average weight per car.	Number of cars.	Pounds.	Average weight per car.	Number of cars.	Pounds.	Average weight per car.
South Omaha	558	349	7,815,764	22394.7	145	4,681,412	32285.6	64	1,542,290	24098.3
Kansas City	457	311	6,687,391	21504.8	38	1,197,774	31520.	108	2,418,976	22397.9
Sioux City	171	89	2,070,920	23268.7	76	2,527,540	33257.1	6	169,410	28235.
South St. Paul	20	....	.....	.....	20	632,283	31614.	...	....	..... .
Average	....	...	.....	22129.	....	.....	32397.8	. ..	..... .	23206.1

[Endorsed:] Tonnage of Fresh Meats and Packing House Prod's from Mo. River points and South St. Paul to and via Chicago during Sept., 1902.

342 think it is admissible, especially as it has been gone into before and is already in the case.

Mr. KELLOGG: I would like to make a suggestion. I do not suppose this Commission can legally dismiss a complaint because the complainant has no interest, but I suppose the Commission can take into consideration whether anybody is complainant about this rate that is entitled to be heard. I say it is none of the business of the Live Stock Exchange what the rate is. The shippers are not objecting. I think the Commission should take into consideration the good faith of this complaint. We may be able to show other reasons why it is being prosecuted.

The CHAIRMAN: We do not consider the testimony of much importance one way or the other. The statement has been prepared and may be useful as showing what the actual movement over this one road is.

Mr. HANSON: Well, we will offer it without comment.

(The same is hereto annexed and marked "Exhibit No. 5 to Mr. Bird's testimony.")

Mr. HANSON: You may state briefly what it is, Mr. Bird.

Mr. BIRD: It shows that the live stock commission merchants of Chicago, if they charge their regular schedule of commission prices receive of the amount that the railroad company obtain for the transportation 26.1 per cent.

Mr. HANSON: You say, if they do charge their regular commissions. Do you know whether if they do not charge their regular commissions they will be fined by the Association?

Mr. BIRD: I have been told so.

Mr. STICKNEY: That is only one commission, if they sold it to the packers. If part of this were feeders and were sold out in the country, they would get another equal commission on it, would they not?

Mr. BIRD: I do not really know. I understand that if they sent it somewhere else——

The CHAIRMAN: My recollection is that the constitution, by-laws and regulations of this complainant are already in evidence
343 and show what their charges are, that is the gross charges. I think Mr. Tomlinson said that 75 or 80 per cent. of those charges are expenses. In like manner you show what you get for bringing a car here.

Mr. BIRD: And what they get out of the sale of the stock.

The CHAIRMAN: How much is profit and how much expense is another question.

Mr. STICKNEY: The Chairman did not understand the force of the inquiry. He has figured up on that one commission. That is what the commission house gets that sells to the packers. Under the rules, if that stock is sold—if a farmer comes here and wants to buy some feeders to take out to his farm and feed, he must employ another commission house to buy that for him, and that commission house charges the farmer the same amount of commission. That is double commission. On a carload of cattle the commission is $12. or $12.50. That is what the first commission man gets for selling it. The Com-

mission man that the farmer employs also gets a commission of $12. There is $24. commission. This statement only shows one commission.

Com'r PROUTY: His statement only shows one railroad transportation.

Mr. STICKNEY: That same stuff may pay another commission.

Com'r PROUTY: But it must also pay another railroad transportation.

Mr. STICKNEY: No.

Com'r PROUTY: How do you get it out into the country?

Mr. STICKNEY: There are lots of people that feed stock within driving distance from here.

Com'r PROUTY: Are they worse here at Chicago than they are at Kansas City, Omaha or St. Paul?

Mr. STICKNEY: Well, yes, sir; the live stock exchanges at those places have something else to do besides filing petitions before the Interstate Commerce Commission and compelling 20 or 30
344 railroads to appear here to thrash over, straw that has been thrashed twice already before this Commission. They take us away from our business and bring the Commission here, and for what purpose, I do not know. Possibly we may put some inquiries before this hearing is closed which may disclose some reason for doing it.

Mr. HANSON: In this connection, if the Commission please, I would like very much, to have Mr. Bird testify what his information is as to the cost of the live stock commission men transacting their business.

The CHAIRMAN: I think we will not go into that.

Mr. HANSON: As the record now stands, as the Chairman stated, it is 75 to 80 per cent., but that is not the fact and I do not want the Commission to act upon it. Now, Mr. Bird, state briefly what Exhibit No. 6 is.

Mr. BIRD: I have undertaken to ascertain what it would cost the St. Paul Company alone if the conclusions of this case is that we must reduce our rates on live stock to a basis of 20 cents from Missouri River points to Chicago and what it will cost if we must reduce the rates to Chicago to the basis of 18½ cents. I have had a chart or plat of the road made, an accurate map, and have noted at each station the rates on live stock as they are now and what they would necessarily be, following the same line of grading as at present. If the Sioux City and Omaha rates were put down to a basis of 20 and 18½ cents. I found the difference in cents per hundred pounds at each station and I have had a report made showing the amount of stock of each class shipped from those stations, showing the amount of loss that would accrue to the St. Paul Company alone.

The CHAIRMAN: What is the period?

Mr. BIRD: I have taken the month of September for an average month. I find that our heaviest stock business is in Novem-
345 ber and December and that a fair average is the month of September.

The CHAIRMAN: You have taken September, 1902?

Mr. BIRD: Yes, sir.

The CHAIRMAN: And assume the same movement from the same points?

Mr. BIRD: Yes, sir.

The CHAIRMAN: That you actually had during that month?

Mr. BIRD: Yes, sir. Then I multiply it by twelve.

The CHAIRMAN: And you show the difference between the rates you get and the rates you would get?

Mr. BIRD: Yes, sir; and I want to say in explanation of this statement, that it does not represent more than half the loss in net revenue because in making this compilation and referring only to the rates directly to Chicago I overlooked the fact that if the rates were reduced from Sioux City and Omaha to Chicago they would necessarily be reduced from those places in a northeasterly direction diagonally across the country to St. Paul and Duluth; the lines running from the Missouri River across in a northeasterly direction cross east and west lines at short intervals and such lines would apply the reduction from all intersecting points to Chicago and the east.

The CHAIRMAN: Your statement simply shows what the loss would be on the movement to Chicago.

Mr. BIRD: No, I think it shows only half, because the lines running to the north east intersecting the east and west lines and making the reductions north would carry a corresponding reduction from points not affected by Sioux City.

Mr. HANSON: Would it not extend to the trans-Missouri territory?

Mr. BIRD: It would be extended into trans-Missouri territory to some extent, but I have not been able to figure that out.

Statement Showing Earnings of C., M. & St. P. R'y on Live Stock Handled on Chicago Basis of Rates in September, 1902, and Comparisons with Results Under Proposed Tariffs, Showing Monthly and Annual Decrease.

	Earnings in September under tariffs in effect.	Earnings under proposed tariffs.					
		Chicago local.			Chicago proportional.		
		Earnings.	Decrease for 1 month compared with previous rate.	Annual decrease.	Earnings.	Decrease for 1 month compared with previous rate.	Annual decrease.
Cattle	$90,037.39	$76,160.35	$13,877.04	$166,524.48	$73,868.73	$16,168.66	$194,023.92
Hogs	47,107.75	40,216.62	6,891.13	82,693.56	37,630.47	9,477.28	113,727.36
Sheep	6,562.08	5,217.90	1,344.18	16,130.16	4,844.02	1,718.06	20,616.72
Total	$143,707.22	$121,594.87	$22,112.35	$265,348.20	$116,343.22	$27,364.00	$328,368.00

[Endorsed:] Earnings of C., M. & St. P. Ry., handled on Chicago basis of rates, in Sept., 1902. Comparison with results under proposed tariffs showing decreases.

347 BIRD.

Statement of Number of Cars of Live Stock Shipped from All Stations on the C., M. & St. P. Ry. into the Various Markets Shown Below, During the Year 1902.

	Horses.	Cattle.	Hogs.	Sheep.	Total.
Union Stock Yards	543	20663	23717	3454	48377
Kansas City	45	1076	1121	68	2310
Omaha-South Omaha	31	914	2013	40	2998
Sioux City	64	4676	4765	177	9682
St. Paul-Minneapolis	123	282	170	13	588
South St. Paul	1	823	1364	103	2291
Austin	...	5	351	...	356
Milwaukee	86	602	2464	99	3251
Cedar Rapids	2	31	834	...	867
Ottumwa	...	46	657	..	703
Points east or south of Chicago	63	57	462	5	587
Miscellaneous	766	4506	649	187	6198
Total	1724	33771	38567	4146	78208

348 Mr. HANSON: What does that statement show?

Mr. BIRD: On the basis of the 20 cent rate a loss of $265,348.20 and on the 18½ cent basis $328,368.00 per annum; and I verily believe that those figures are about half of what the actual loss would be.

Mr. HANSON: I offer this in evidence.

(The same is hereto annexed and marked "Exhibit No. 6 to Mr. Bird's testimony.")

Mr. COWAN: Did you file the map?

Mr. HANSON: No, sir.

The CHAIRMAN: He takes all his stations from which the stock moves to Chicago and the amount moved from each station and he multiplies that by the rate they got and it is a certain figure. Then he multiplies the same thing by 20 in one case and 18½ in the other and the difference is $265,000. in the first case and $328,000. in the other.

Mr. COWAN: I was asking if he filed the map. He says he did not. I say these are the conclusions he arrived at.

Mr. HANSON: Have you that map Mr. Bird?

Mr. BIRD: No, sir, it is a thin proof, penciled, used for compilation purposes.

Mr. HANSON: Are you able to state from investigations you have made the percentage of live stock cars that go west empty after having been brought to Chicago?

Mr. BIRD: Yes, sir; I have taken pains to ascertain that.

Mr. HANSON: State what it is.

Mr. BIRD: I have a memorandum here. It is a fraction over 80 per cent.

Mr. HANSON: Have you a memorandum that you can put in evidence?

Mr. BIRD: I do not seem to be able to lay my hand on it.

The CHAIRMAN: That is 80 per cent. of the cars you bring to Chicago go back empty?

Mr. BIRD: A little more than 80 per cent. go back empty.

349 Mr. HANSON: For the purpose of getting it into the record, I would like to have Mr. Bird introduce in evidence the rule of the St. Paul Company in respect to the transportation of parties with live stock.

Mr. BIRD: It is published and on file with the Commission and the rule is found in what is known as Western Trunk Line Tariff No. 4, I. C. C. No. 286, effective April 1st, 1902. It is reprint so far as these rules are concerned.

Mr. HANSON: If that is the case, I will not introduce anything further on that.

Mr. BIRD: It is found on page 12 of that tariff.

Mr. HANSON: Mr. Bird, some reference has been made here to what is called the Minnesota Distance tariff. I wish you would briefly state to the Commission what you know as to the construction of that tariff with reference to the gradation of rates as to distance and also the relative position of commodities one with the other.

Mr. BIRD: That tariff was made a number of years ago—I think ten or more—by the railroad companies in conjunction with the Commissioners of Minnesota. It was the joint production of the Commission and the railroads. I think it is right to say that the railroads felt compelled to a great extent to conform themselves to the opinion of the Commission, because they had the power to make the tariff anyhow. The tariff was made with proper respect to the descending grade per ton per mile according to increasing distance. It was graded gradually and scientifically with reference to the long and short haul. First class was established and each class had a fixed relation to the first class, carried clear through. It is the only tariff of the kind I know. It is described briefly as the Minnesota Distance tariff. It is not the Commission's tariff, except that the Commission accepted it as a proper schedule for southern Minnesota. It was adopted by the St. Paul and the Northwestern Company in Southern Minnesota first as their distance tariff and after-

350 wards as the distance tariff between Minnesota and Iowa and I think between Wisconsin and Minnesota; but certainly between Minnesota and Iowa.

Mr. HANSON: Now, Mr. Bird, there was testimony given here that if the rates from Southern Minnesota on live stock to Chicago were reduced there would be a corresponding reduction of rates from that territory to St. Paul. Have you anything to state to the Commission on that?

Mr. BIRD: I think this case was first heard about the middle of May last year. The first hearing under this present complaint was on the 15th of May, and it was postponed on the request of the railroads, which I presented at the time. The reason for the request for a postpon-ment was our belief that by July 1st rates would be revised so as to conform generally to the previous practice of

uniformity of rates on live stock and products. Soon after that hearing one of the Commissioners from Minnesota with the secretary called on me to know what we intended to do, especially to know if we intended to reduce live stock rates from St. Paul to Chicago and if that reduction would apply at intermediate points through southern Minnesota. I was given to understand very clearly and forcibly by the Commissioner that if we did reduce our rates, in the absence of a final hearing, or in the absence of a proper order, it would be regarded as the voluntary act of the railroads and that they (the Minnesota Commissioners) would reduce the rates in Minnesota, not specially from points in southern Minnesota, but in making an order for reduction it would have to be universally applied throughout the State. It meant a wholesale reduction of rates upon all live stock in the State of Minnesota.

Mr. HANSON: I suppose the Commission will take notice of the laws of Minnesota under which the Commission of Minnesota act—that they do have power to fix rates, subject to the limitation that they shall not be unreasonably low.

The CHAIRMAN: More than that, the Minnesota laws in
351 reference to the Commission and its powers were made part of the record.

Mr. HANSON: Taking the rate from southern Minnesota on live stock into St. Paul and from the same points into Chicago, what have you to say to the Commission as to the adjustment of those rates, whether one is properly adjusted as to the other as they now are; and you may take into consideration the testimony which has been given here showing the movement of live stock under those rates into St. Paul and into Chicago.

Mr. BIRD: I have not had time to tabulate the movement of the traffic.

Mr. HANSON: It shows that there is more stock moving from southern Minnesota into Chicago than into St. Paul under the existing rates?

Mr. BIRD: That is true. It has been a subject of contention and investigation for nearly two years, and in that connection I think I should say that I was notified about two years ago by the Secretary of the Commission or the Commission's representative that they were in receipt of a good many complaints as to the relative rates, and that the Commission contemplated a reduction of live stock rates. I was asked why certain relative conditions at certain places existed and I told them that it was impossible for the representative of any one railroad by himself to give a satisfactory explanation of the general situation, that if they were going to investigate that matter they should have all the interested roads represented or all the roads in that district represented at the time; that it was impossible for any one man to keep in view the various conditions that affected the grading of those rates. The result was that the Commissioners appointed a day for a meeting to consider those questions and they came to Chicago because the principal representatives were here. It was a conference which resulted in a readjustment in some districts.

It was one of the sort of conferences where one party had to
352 face the man behind the gun. He had the power to make the rate and we felt obliged to reach a basis of figures that was satisfactory to the Commissioners, and those rates were really adopted under those circumstances.

Mr. HANSON: And the now existing rates are those rates that were then adopted?

Mr. BIRD: Yes, sir.

Mr. HANSON: And so far as you know, the shipments under those rates have not worked disadvantage to the Chicago market, but rather an advantage?

Mr. BIRD: A greater portion of the live stock from southeastern Minnesota, where the St. Paul operates comes to Chicago.

Mr. KELLOGG: Does not the greater portion of the cattle from the intermediate territory come to Chicago?

Mr. BIRD: That is my belief, from a general knowledge of the business.

Mr. HANSON: Mr. Bird, if you have any knowledge on the subject I would like you to state whether considerable of the live stock product at Missouri River points is moved to the west and south and consumed there?

Mr. BIRD: I have no accurate knowledge in detail, taken from the records of the packing houses, but I have a general knowledge of the facts. I know that the material proportion and substantial proportionn of the traffic is shipped to points west of the Missouri River and south of the Ohio River through St. Louis and southern outlets as well as to the far west. I know that a large portion of the traffic from Omaha goes to the Southwest, because there was a long controversy and a very high tension of competition between Omaha and Kansas City as to relative rates to the Southwest and Southeast. It resulted at one time in making the same rate from Omaha to southwestern and southeastern points as was made from Kansas City, 200
miles farther south than Omaha. It prevailed a long time
353 and it was understood to be a very material question at Omaha. I know that large quantities of product have been shipped to the Northwest because once in a while when business was dull they have taken provisions and packing house products from Omaha to the North Pacific Coast by way of—the Northern Pacific.

Mr. HANSON: I think it is in evidence here that very few finished cattle are shipped westward to Missouri river points from Iowa points and slaughtered there.

The CHAIRMAN: That was Mr. Kenyon's testimony yesterday.

Mr. HANSON: Would you say there is a much larger product moved west from Missouri River points and consumed there and in the Southwest than there are animals shipped in to Missouri River points from east of the Missouri River?

Mr. BIRD: I think that so far as beef is concerned that is true, and that is confirmed by the fact that Swift & Co. and Armour, the two large packers have just opened large plants at Ft. Worth, Texas, to supply their local demands from the home market.

Mr. HANSON: So there is no shipment of beef from Iowa points

shipped into Missouri River on the local, slaughtered there and the product shipped back to Chicago?

Mr. BIRD: It is very difficult to state that case clearly. Cattle and live stock are going into Omaha and Kansas City from every direction that they can be drawn from and a large portion goes to the South, Southeast, Southwest and Northwest, and a portion comes East. They ship beef from Kansas City to Chicago. The same man that manufactures here in Chicago does that. It is just as natural and proper for a live animal to be shipped from western Iowa, slaughtered at the Missouri River and the product sent west as it is for an animal from trans-Missouri territory to be shipped to the River, slaughtered and the product shipped east, but it all goes in there and I do not know that it makes any difference.

The CHAIRMAN: What Mr. Kenyon testified to was that the animals shipped to the Missouri River from points east were
354 not nearly enough to make the products that went west from that point, and Mr. Bird expresses the same opinion.

Mr. HANSON: One more question Mr. Bird. I wish you would explain to the Commission, in view of the testimony of Mr. McVann in reference to the handling of live stock brought into Sioux City from the west which is consigned to either Sioux City locally or to Chicago on local and through bills of lading, just how that is handled if you know.

Mr. BIRD: I can only state that so far as the Chicago, Milwaukee & St Paul Company's business is concerned. Take Mitchell, South Dakota, as an illustrative point. It is in the center of the stock producing territory in South Dakota. Sioux City is on the direct line to Chicago. It is on the main thoroughfare from Mitchell to Chicago. Some of the live stock is stopped at Sioux City solely for the purpose of feeding and watering and coming on. It does not go on the market. A large part of it is billed locally to Sioux City and if the market is not agreeable to the owner it is forwarded to Chicago. The method which obtains on the St. Paul road in such a case is, that if an owner demands a change of destination of his property while it is within our control, and presents evidence of ownership and the right to change the destination of the car from Mitchell to Sioux City to Mitchell to Chicago, the same way bill is used through; the words "Sioux City" are erased and "Chicago" substituted, the correct rate from Mitchell to Chicago is charged, and all way bills are forwarded to the General Auditor at the end of the week. It works the same in either case. It may be billed to Chicago and stopped at Sioux City, but the same way bill is used and is returned to the Auditor and when the week's report comes in it shows simply a change of the destination of the property and a change of the rate to correspond. It is done by the St. Paul Company on demand of the owner of the property, but it must be done within a reasonable time. Live stock from all over the north and northwest coming to Milwaukee and Chicago is handled precisely the same way. Wherever Mil-
waukee is on the direct line to Chicago from the point of
355 origin and where the rate from the initial point to Chicago is the same as to Milwaukee the property is forwarded within

the car service rules and the way bill is changed. If the rate to Chicago is greater than the rate to Milwaukee the bill is altered so as to show the correct rate. It is a fact that at Sioux City the rule is susceptible of abuse. I do not believe that that abuse has attached the last year to the St. Paul Company's traffic. At all events, every possible care is taken to prevent any fraud on the tariff, but if a carload of stock is sold at Sioux City, the owner can without our knowledge if we are not very shrewd say, I want to change that bill to reach Chicago at the Chicago rate, and I do not know why he could not, with the concurrence of the Stock Yards, substitute another carload of stock.

Mr. HANSON: If there is a through way bill from Mitchell to Chicago by way of Sioux City and the stock is brought into Sioux City and sold there, is that way bill taken up and reported?

Mr. BIRD: The way bill is changed to read "Mitchell to Sioux City" and is no longer a Chicago way bill.

Mr. HANSON: Is that way bill floating around so that it represents an incomplete shipment into Chicago?

Mr. BIRD: It is not.

Mr. HANSON: You do not agree with Mr. McVann so far as the St. Paul Company is concerned as to the way that business is handled at Sioux City?

Mr. BIRD: I do not pretend to contradict what Mr. McVann said but I intend to say that so far as I know and believe, every care is taken to prevent the mis-use of the rates in that way.

Mr. HANSON: Have you made inquiry since Mr. McVann's testimony as to the practice of the St. Paul Company?

Mr. BIRD: I have

Mr. HANSON: And it is as you state?

Mr. BIRD: I believe it to be.

356 Mr. HANSON: Is there any live stock product to any amount moved from St. Paul to Chicago on the local rates?

Mr. BIRD: I understand so—a little.

Mr. HANSON: Does it amount to anything?

Mr. BIRD: I do not think the movement from St. Paul eastward amounts to much.

Mr. HANSON: It is largely consumed there and at points north and west?

Mr. BIRD: I think we carry product into St. Paul.

Mr. HANSON: Instead of carrying it out?

Mr. BIRD: We carry some out.

Mr. HANSON: Does it amount to anything?

Mr. BIRD: Not much.

Mr. HANSON: You do have a division of the rate from points west of St. Paul into Chicago?

Mr. BIRD: Yes, sir.

Mr. HANSON: Do you know whether there is any live stock moved on the local rate from St. Paul to Chicago?

Mr. BIRD: I do not know that I ever heard of any. I do not think that any live stock moves from any packing point on the local rate.

Mr. HANSON: That was as Mr. Kenyon testified.

Mr. BIRD: From terminal points, I mean.

Mr. HANSON: As a rule they move on through billings.

Mr. BIRD: They come through. The stock comes clear through, as it does from Nebraska and Kansas.

Mr. HANSON: I think that is all, unless I have omitted something, Mr. Bird, that you have in mind.

Mr. BIRD: I do not think of anything.

357 Cross-examination:

Mr. COWAN: Mr. Bird, you said, taking the entire period covered by that statement made up by the Auditor of the Interstate Commerce Commission and submitted by Mr. Tomlinson, that there were some reductions, and you pointed out the reductions.

Mr. BIRD: No, I said there were reductions within that period and, going to the beginning of the period, the rates were then higher than they are now.

Mr. COWAN: You pointed out some reductions, as I have stated, did you not?

Mr. BIRD: I will refer to the record and show what I said.

Mr. COWAN: You need not go to the record. I will withdraw the question rather than take the time. Mr. Hanson asked you the question after reading Mr. Tomlinson's testimony to the effect that within the last 10 or 12 years there have been substantially very few reductions and have been a few advances. Will you point out on that statement of the Auditor where there have been any reductions—material reductions—within the period that Mr. Tomlinson names?

Com'r PROUTY: Why is it necessary to take up time on that?

The CHAIRMAN: We understand the matter as your question implies. Mr. Tomlinson confined his statement to the last 10 or 12 years and Mr. Bird goes back 15 or 18 years.

Com'r PROUTY: You can point that out in argument.

Mr. COWAN: I wanted to show that it did not have the effect that Mr. Hanson desired to give it. Is the division of the rate on shipments from points west by way of the Missouri river markets to Chicago the same in dollars and cents per hundred pounds as the balance of the rate? I am just asking that for general information on the subject. The term "balance of the rate" has been used and you used the term "division of the rate" or "proportion" accepted by the railway this side of the river.

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Mr. BIRD: I cannot answer that without having all the tariffs from Nebraska and Kansas to Chicago.

Mr. COWAN: Well, I will withdraw it.

Mr. BIRD: I meant to say in the case of Sioux City that the rates from points west of Sioux City to Chicago were about 14 cents greater than they were to Sioux City. That showed the difference in rates. The percentage divisions vary somewhat according to the distance west of the river as well as the differences and therefore I cannot state it without the tariffs before me.

The CHAIRMAN: Generally speaking, Mr. Bird, is the balance

of the through rate approximately the share of the through rate that the line east of the Missouri River gets?

Mr. BIRD: I think it would vary somewhat. I cannot answer that. Approximately, perhaps; not altogether.

The CHAIRMAN: I can see how it might vary.

Mr. BIRD: It must vary. There is no specified co-relation between the balance of the through rate and the percentage division of the through rate.

Mr. COWAN: Do you know what the balance of the rate is on shipments from Kansas points through Kansas City to Chicago?

Mr. BIRD: I could not testify as to that without the tariffs. There is a difference though, owing to the point of origin of the live stock.

Mr. TOMLINSON: Do you think it is more than 14 cents Mr. Bird?

Mr. BIRD: The rates have changed so rapidly and violently since last September that it is difficult for me to express an opinion.

359 Mr. TOMLINSON: It was previous to September?

Mr. BIRD: It is a matter of exact answer and I do not think I ought to be called on to express an opinion on such a vast amount of figures.

Com'r PROUTY: Did you not testify that the differences ranged from 14 to 17 cents?

Mr. BIRD: I did not intend to say so. What I intended to say was that the price Chicago people had to pay on stock over what Omaha, Sioux City and Kansas City pay, would range all the way from 14 to 17 cents. It might be by a balance of a rate, or a percentage division of the through rate, but for the service rendered from those packinghouses on live stock it would not average more than 14 to 17 cents.

Com'r PROUTY: That would not necessarily correspond with the division——

Mr. BIRD: It would represent in a general way how much more these people had to pay for their transportation than the packers are paying for their meat.

Mr. COWAN: I did not mean to start a long discussion. I wanted to know whether the "division of the rate" and "balance of the rate" are synonymous terms?

Mr. BIRD: They are not.

Mr. COWAN: They are not based one upon the other.

Mr. BIRD: They could not be in all cases.

Mr. COWAN: You spoke of the value of your stock yards at the different points where you have stock yards. You, of course, do not have stock yards at all your stations?

Mr. BIRD: Generally at all stations. There are about twelve hundred stations on the St. Paul road.

Mr. COWAN: Some are quite extensive plants and some quite small?

Mr. BIRD: Some are larger than others; some are also smaller than others.

Mr. COWAN: Are the small pens very expensive affairs?

Mr. BIRD: No, but it costs just as much for scales and a windmill and water for a little stock yard as a big one.

360 Mr. COWAN: They do not have scales at the little ones, do they?

Mr. BIRD: Very generally.

Mr. COWAN: At what percentage of your stations do you have scales?

Mr. BIRD: I cannot figure it out.

Mr. TOMLINSON: Is it not shown in your station list at what stations you have scales?

Mr. BIRD: No, I made an estimate and presented it to the Commission, taken from the best sources of information at my command.

Com'r PROUTY: Are they track scales?

Mr. BIRD: No, sir: Track scales cost eight hundred dollars. They are smaller scales. The cattle are driven in and weighed.

Com'r PROUTY: How many animals do you weigh at once on those scales?

Mr. BIRD: I do not know. I think a carload—perhaps less.

Com'r PROUTY: They are weighed before loading?

Mr. BIRD: Yes, sir.

Com'r PROUTY: And charged on that weight?

Mr. BIRD: We do not get that weight. We get the weight here of the Weighing Association—the shrunk weights.

Com'r PROUTY: Why do you weigh them before loading?

Mr. BIRD: The shipper wants it.

Com'r PROUTY: That is entirely for the convenience of the shipper?

Mr. BIRD: Yes, sir; we would not put in scales if we did not feel obliged to. The demand is increasing right along.

Mr. TOMLINSON: Is it not a fact that a good many shippers on your line own scales and put them in at their own expense?

Mr. BIRD: No, sir; I do not think so.

361 Mr. COWAN: You spoke about that Minnesota Distance Tariff. Have you a copy you could furnish us?

Mr. BIRD: A copy is on file with the Interstate Commerce Commission, because it is an interstate tariff between Minnesota and Iowa. I think there is a copy here.

Mr. COWAN: Never mind. Mr. Tomlinson says he has a copy. That is all.

Com'r PROUTY: How many carloads of live stock do you handle on all your lines a year?

Mr. BIRD: I do not like to make an estimate. It may be from fifty to seventy thousand. We handled yesterday six hundred and two carloads on the road.

Com'r PROUTY: You could furnish a statement showing that?

Mr. BIRD: I could furnish a statement showing the total number of carloads of stock handled in 1902.

Com'r PROUTY: Please do that.

Mr. BIRD: It will take some days to do it.

Mr. HANSON: Can you state to the Commission about how much

the St. Paul paid out for damage loss to live stock transportation the last two years?

Mr. BIRD: Yes, sir.

Mr. COWAN: On that point, I believe at the last hearing we proposed to introduce some testimony on that line and undertook to get as near the facts as we could and the Chairman announced that as far as that point was concerned it was not deemed a material point and we need not proceed.

Mr. HANSON: The Commission held that the burden was with us, as I recollect.

Mr. COWAN: As I recall, the Commission said we need not introduce testimony on that.

The CHAIRMAN: If such a remark was made as you indicate, it was upon our general understanding that the loss incurred by the railroads in transportation is so small as to really not cut any figure.

362 Mr. BIRD: I do not think that is a correct view.

The CHAIRMAN: Then, you may state what your experience is?

Mr. BIRD: I cannot separate 1901 and 1902, but I have an exact statement. There were filed with us for those two years claims for $120,000. damage to live stock, of which we have paid up to date $60,000.

Com'r FIFER: For what period?

Mr. BIRD: For 1901 and 1902.

Mr. STICKNEY: What kind of damage to live stock?

Mr. BIRD: Any damage they could make apparent. Detention of trains—I remember a large number of claims came in because there had been a wreck on the eastern end of the road which blocked the entire line; that is, blocked that thoroughfare, and instead of notifying the shippers west that we could not take stock that day, we expected to clear the wreck in time to let the stock trains through, and were disappointed. They were held back 15 hours and there was a great rush of claims on those days because of the plea that we had not used due diligence and notified them that they could not come through.

Mr. HANSON: During the same period of time, how much did the Company pay out for loss and damage to the products of live stock?

Mr. BIRD: Seventeen thousand five hundred and some odd dollars. I recollect one case where the train was entirely destroyed by wreck and fire. We had to pay for the meat and the cars too.

Mr. HANSON: Can you state how much the Company paid out for injury to persons in charge of live stock while in transit?

Mr. BIRD: About five thousand dollars a year for four or five years. It will not vary from that more than a few hundred dollars in five years—about five thousand dollars a year.

Mr. HANSON: Death and personal injuries?

Mr. BIRD: Death and personal injury to men on trains in
363 charge of live stock.

Mr. HANSON: That is all.

The CHAIRMAN: If there are no further questions to be asked Mr. Bird, he will be excused.

The witness was excused.

364 After Recess.

JANUARY 8, 1904—2 p. m.

WILLIAM A. GARDNER, having been duly sworn, testified as follows:

MR. COWAN: State you- name and official position to the stenographer.

Mr. GARDNER: William A. Gardner, General Manager, Chicago Northwestern Railway.

Mr. COWAN: Are you the General Manager of the entire system, Mr. Gardner?

Mr. GARDNER: Not of the Omaha Line. I am General Manager of something like 7,500 miles.

Mr. COWAN: And that is what part of the lines, generally speaking?

Mr. GARDNER: All of the lines out of Chicago. It excludes the lines which center at St. Paul. I have charge of Nebraska, a portion of Minnesota, South Dakota, Illinois, Iowa and Wisconsin.

Mr. COWAN: Your line hauls a considerable amount of grain from points on the Missouri River and originating points west of the Missouri River to Chicago, does it not?

Mr. GARDNER: It does.

365 Mr. COWAN: Will you kindly tell the Commission, if you know, what the average loading of your cars hauling grain from that locality is?

Mr. GARDNER: Well, I could not be specific as to that particular locality. The average loading of box-cars on the road is about 14 tons.

Com'r PROUTY: Do you refer to grain, or to all commodities?

Mr. GARDNER: All commodities.

Com'r YEOMANS: In box cars?

Mr. GARDNER: Yes, sir.

Mr. COWAN: What is your average loading of grain?

Mr. GARDNER: I have never had occasion to go into that. Of course it would fluctuate with different kinds of grain and different years. We frequently get a load of light weight of oats. There is considerable amount of oats—oats and corn comes to Chicago.

Mr. COWAN: What is considered and average loading of wheat, or if not an average of wheat, tell us all about the loading of grain.

Mr. GARDNER: We insist upon loading every car to its capacity and we check that up to see that it is loaded. Consequently a fifteen ton box-car would probably be loaded with 14 to 14½ tones of grain.

Mr. COWAN: Is it not a fact that a larger majority of cars used in the shipment of grain will load 25 to 30 tons?

Mr. GARDNER: No, sir; we have only a few forty ton box-cars on our road out of 29,000.

Mr. COWAN: Have you a book of tonnage ratings of your engines?

Mr. GARDNER: We have them printed on the back of our time schedules.

366 Mr. COWAN: Does that give the number of your engines and their tonnage ratings?

Mr. GARDNER: Yes, sir; the classification of engines as to their size and gross tonnage they will pull in a train over certain lines of railroad.

Mr. COWAN: Can you furnish us a book of tonnage ratings?

Mr. GARDNER: I can send you the time cards. We have some fifteen divisions. What I can send you will be a file of the time cards.

Mr. COWAN: That is as near as you have it?

Mr. GARDNER: Yes, sir.

Mr. COWAN: The Burlington System has a book of printed ratings, giving the tonnage capacity of their engines, and I thought you might have such a book on your line.

Mr. GARDNER: Our time cards will probably answer the same purpose, except that it will require a longer time in examination to ascertain it.

Mr. COWAN: What has been the improvement which has been made in the track of your road for the last few years? The Commission would like to have something of a history of the improvements and development of the property?

Mr. GARDNER: I do not know that I am competent to go into that as extensively as they might like. Our annual reports will disclose how much money we have expended. I should say we have expended approximately $10,000,000 to $15,000,000 between Chicago and Omaha in the reduction of grades, curves, and permanent improvements. The average grade now between Chicago and Omaha is seven-tenths.

Mr. COWAN: That is the maximum?

Mr. GARDNER: Yes, sir.

367 Mr. COWAN: A great deal of your line is practically level, is it not?

Mr. GARDNER: No, I cannot say in the affirmative as to that. It is particularly rolling between here and the Mississippi River; there are some long grades, and we have some grades over the water-sheds in Iowa.

Mr. COWAN: Over what divisions of the road does the maximum grade obtain—over all divisions?

Mr. GARDNER: The maximum grade is from the Cedar River to Cedar Rapids. There is a maximum grade out here at Creston in Illinois. There are as many maximum grades in Illinois as in Iowa.

Mr. COWAN: How far is your line double-track?

Mr. GARDNER: The entire distance.

Mr. COWAN: That is, between Chicago and Council Bluffs?

Mr. GARDNER: Yes, sir.

Mr. COWAN: Is it not a fact that there has been a very large increase in the tonnage handled over your line in the last few years.

Mr. GARDNER: Per train, or in the aggregate?

Mr. COWAN: In the aggregate.

Mr. GARDNER: Yes; not a tremendous increase. We handled thirty million in the last fiscal year; twenty-nine in the previous years, and I think twenty-seven or twenty-eight the previous year—about a million tons a year, increase.

Mr. COWAN: There has been a development of the country supplied and served by your lines of railroad, has there not?

Mr. GARDNER: Continually.

Mr. COWAN: Increase in population and industries?

Mr. GARDNER: Yes, sir.

Mr. COWAN: And that has brought about a permanent increase in the tonnage over what it was a few years ago?

368 Mr. GARDNER: We hope so, but not always.

Mr. COWAN: In ordinary times it might be so?

Mr. GARDNER: You might call the present an ordinary time, and in the last few months we have not averaged 20 cars of grain a day out of the whole State of Iowa.

Mr. COWAN: What do you credit that to?

Mr. GARDNER: The farmer does not want to sell it, I suppose.

Mr. COWAN: Possibly he is shipping it to the Gulf, is he not?

Mr. GARDNER: I am not positive about that, I hear rumors about that.

Mr. COWAN: Upon what information do you base the suggestion that the farmer does not care to sell it?

Mr. GARDNER: Simply because it is not moving; that is what I base that upon, and my inquiries elicit that reply.

Mr. COWAN: Does the reduction in the rate of freight made from that territory stimulate the movement of grain?

Mr. GARDNER: Yes, sir; to a small extent. I think we are loading five cars a day or more this week than last; it is pretty small.

Mr. COWAN: Have you a memorandum in your office that will show the comparative tonnage which an engine of a given rating can pull over your line now and what it could five years ago?

Mr. GARDNER: No; not in the office, but I can tell you if you will take my word for it. We of course have locomotives very much heavier.

Mr. COWAN: I mean locomotives of the same capacity.

Mr. GARDNER: They would pull probably 25 per cent. more.

Mr. COWAN: And that is owing to improvements in the track, reduction in grades, etc.

369 Mr. GARDNER: Yes, sir.

Mr. COWAN: Bridges, culverts, and such things.

Mr. GARDNER: Yes, sir.

Mr. COWAN: Do you have charge of the matter of determining what character of improvements shall be charged in the item of operating expenses, or the different items of operating expenses, towit: repairs of roadway, renewal of rails and ties, renewal of

bridges and culverts—do you have charge of determining what account they shall be charged to?

Mr. GARDNER: No, sir; I do not.

Mr. COWAN: Do you happen to know the method used by your road in charging up improvements of that character?

Mr. GARDNER: I should say it was all charged to operation.

Mr. COWAN: That is, if you take out a wooden culvert and substitute cast-iron drain pipe or steel girders, that would be charged to expense of operation?

Mr. GARDNER: There is a fixed, set rule for that. The Northwestern road, as the reports show, are very liberal in its charges to operation.

Mr. COWAN: So that in addition to the improvements charged to income account or to capital account, the road has been largely improved by additions charged to operating expenses?

Mr. GARDNER: Well, I do not know that I consent to the qualification of "largely"; but it has been improved.

Mr. COWAN: Are you able to state, or are you able to furnish the Commission with information as to what extent it has been improved by those additions which have been charged in the operating expense account?

Mr. GARDNER: No; I cannot give you that information.

Mr. COWAN: Do you know whether your books will show that?

370 Mr. GARDNER: I do not.

Mr. COWAN: The traffic man does not know and we called the General Manager to try to find out. Do you know who would know?

Mr. GARDNER: The proper accounting officer, I suppose.

Mr. COWAN: Who would that be?

Mr. GARDNER: Mr. Kirkman is the Vice President in charge of accounts.

Mr. COWAN: Is his office here?

Mr. GARDNER: Yes, sir; it is in Chicago.

Mr. COWAN: Now, have you as General Manager of this railroad made any effort to ascertain what it costs you in fact to move the traffic over your line of road? I do not mean as a whole, but taking a large class of traffic like grain or live stock?

Mr. GARDNER: I have been untiring in that effort most of my life, but I have not arrived at very many satisfactory results so far.

Mr. COWAN: Admitting that it could not be stated with absolute mathematical certainty, but as a matter of approximation, could you state what it costs you per ton to move trains of grain from the Missouri River to Chicago, over your line?

Mr. GARDNER: No, sir; I could not, because we very seldom have a full train of grain—very seldom indeed.

Mr. COWAN: Take dead freight generally, then that moves in train load lots.

Mr. GARDNER: I can tell you accurately what it costs for engineers and firemen on locomotives, wages of conductors and train crew.

I can tell you it costs $40 per car a year to repair freight cars
371 and from $1,500 to $1,800 a year for repairs of locomotives.
But that is only a small portion of the expense when you come to analyze it.

Mr. COWAN: That would not bring you any nearer to a solution of the problem than the general items of conducting transportation.

Mr. GARDNER: It would not; no, sir.

Mr. COWAN: You move grain trains at such a moderate rate of speed that you are enabled to get the largest amount of traction power out of your engines?

Mr. GARDNER: Yes, sir.

Mr. COWAN: I believe you said a while ago that you were not informed as to the financial condition or system of accounts on your road?

Mr. GARDNER: No, sir; I am not.

Mr. COWAN: So it would not do much good to go over these amounts with you for explanation, but take for illustration the statement in the annual report furnished from it by the Commission's Auditor. It appears——

Mr. DAWES: For what year?

Mr. COWAN: I will give you that. It appears that for the year ending June 30, 1903, the costs of maintaining roadway per mile of line was $548.00 against $594.00 per mile of line in the year 1902. Is that reduction due to the fact that you had previously been improving your road, so that the cost of maintenance of way is reduced by reason of the condition you have put it in?

Mr. GARDNER: No, sir.

Mr. COWAN: If you happen to know how to explain the less cost for the year ending June 30, 1903, than for the year ending June 30, 1902, you may do so.

Mr. GARDNER: Yes, sir; I am conversant with that. We
372 could not obtain sufficient labor to do the work we wanted to do.

Mr. COWAN: What labor?

Mr. GARDNER: Track labor, for repairs. Notwithstanding we offered $2.00 a day on *may* portions of the railroad we were unable to secure men.

Com'r PROUTY: Do you mean you were unable to secure men to keep the track in order?

Mr. GARDNER: No, sir; the track is always in good order; but we were unable to secure men to do ditching, if you please, and such things as that they did the year before.

Com'r PROUTY: Take the line from here to Omaha. You put that down in good shape.

Mr. GARDNER: We assume it is in good shape always; but there is renewal of ballast and rails, ties and there is the work of cleaning ditches every year.

Com'r PROUTY: Was there any work on that portion of your track necessary, during the year ending June 30, 1903, which you were unable to do?

Mr. GARDNER: From the standpoint of safety, no, sir; from the standpoint of economy, yes, sir.

Com'r PROUTY: Why?

Mr. GARDNER: Because, for instance, if you do not clean out your ditches this year, and you have two years work to do next year, it costs more.

Com'r PROUTY: Is there anything more of a permanent nature to be done on that line?

Mr. GARDNER: Yes, sir; there are some renewals and put-ing in culverts which are not permanent: a great many of them.

Com'r PROUTY: What do you mean by renewal?

Mr. GARDNER: Taking out piling and putting in stone arches.

373 Com'r PROUTY: You have to put in culverts between there and Omaha?

Mr. GARDNER: Yes, sir. I think our estimate for next year is something like a million dollars for replacing wooden culverts and bridges, and it will take considerable money for several years to come.

Com'r PROUTY: Do you apprehend you will get to a time when there will not be no more work of that kind to do?

Mr. GARDNER: I talked with the President the other day about that, and we thought it would not be during our time.

Com'r PROUTY: How many gross tons will one of your standard freight locomotives haul from here to Omaha?

Mr. GARDNER: In either direction 1,600 tons right straight through, the maximum size of locomotive.

Mr. COWAN: You are not able to give us more definite information than you have already done with respect to the cost of hauling grain? You cannot say what it does costs to move it, actually?

Mr. GARDNER: I could not tell what it costs to haul a ton of any commodity on the Northwestern, and I am as close to getting at that cost as anybody else has gotten, I think.

Mr. COWAN: Disassociating ourselves from any interests in the controversy, how is a man able to tell what is a reasonable rate of freight to charge on a given commodity if you cannot tell what it costs to perform the service? How is he able to figure out what is reasonable, either the rate to the shipper or to the railroad if he cannot tell what it costs to perform the service?

Mr. GARDNER: If some one would outline what they considered a reasonable and fair profit for operating a railroad, I might answer that inquiry.

374 Mr. COWAN: Suppose we take a hypothetical case. We will take it in your case. You were earning a sufficient profit, were you not, when you earned interest in the year 1906 at 4.74 per cent. on the bonded indebtedness and paid a dividend of 6 per cent. on the common stock and 7 per cent. on the preferred stock? You paid interest of 4.74 per cent. on the bonded indebtedness. If that was a fair return on the value of the property—if that was a fair return—earning your fixed charges and 6 and 7 per cent. on the preferred and common stock—how could you from that figure what

would be a reasonable rate on grain or other dead f-eight, say, over your line, from the Missouri River to Chicago, or from here to the Missouri River?

Mr. GARDNER: I hardly think it is reasonable to select any one year. You would have to carry that over a term of years. Take this present year and I do not believe the showing will be quite as complimentary.

Mr. COWAN: For the sake of getting down the figures, I will say that it appears that for this year, the year ending June 30, 1903, the rate of per cent. which you paid upon your common stock was 7 per cent. and on the preferred stock a per cent., and in addition to that the interest upon your bonded indebtedness.

Mr. GARDNER: Go back three or four years and you will find where we were only paying 4 and 5 per cent. on our stock. I am frank to confess that I do not assume to be a competent witness in that matter. If somebody would fix what was a fair return on the property, then I *I* might figure what was a fair and reasonable rate.

375 Mr. COWAN: As a hypothetical case, take that as a basis of a fair return on your property; then what would be a reasonable rate of freight and what would be your method of estimating it.

Mr. GARDNER: I am not a traffic official and could not tell you.

Mr. COWAN: The traffic official we had here said he did not know, and he said we would have to take an operating man.

Mr. GARDNER: I will stand for anything I have to do with. I do not know about the making of freight rates, and don't know about the making of fair and reasonable freight rates.

Mr. COWAN: Is there any official, individual or combination of individuals, on your road or any other railroad, who can furnish the basis upon which to make an estimate of a reasonable rate? Is there such a thing in existence in railroad management?

Mr. GARDNER: Yes, sir; there are a great many railway men in the country who might explain that. I do not know that I can name them.

Mr. COWAN: Have you with your railroad any other individual who can make an estimate on any basis known to you of a reasonable rate—of what it takes to constitute a reasonable rate?

Mr. GARDNER: Well, the Traffic Department frequently applies to us to find what it costs to do certain things. The competition is such that costs does not always settle the question, and most generally the figure I name to them they do not accept; they nearly always get a great deal lower.

Mr. COWAN: If you cannot tell them any more than you can tell us, you would not expect them to adopt your figures, Mr. Gardner, would you?

Mr. GARDNER: Possibly that is the reason they do not fall to my views.

376 Mr. COWAN: The Commission would like to know, and indicate a desire to me, to ask some questions of an operating man, to ascertain upon what basis the rates are figured, the reasonableness of the rates. The traffic men all claim they are reasonable—

at least that they are not too high to be reasonable, but they say they do not know the basis upon which they make them, because they do not know how much it costs to perform the service, and refer us to operating men.

Mr. GARDNER: I appreciate that, and would be glad to give you any suggestions I can. I suggest this, that their basis of rates is something that will yield a profit under good conditions as well as under poor conditions. With reference to the grain business, if all the cars that came eastbound loaded with grain went westbound with load, we could afford to haul grain pretty cheap and afford to haul westbound traffic pretty cheap; but in my experience with the Northwestern road of twenty-three or twenty-four years, I have yet to see the time when one-half or two thirds did not have to be hauled empty.

COMR. PROUTY: The testimony in this case is that the empty car movement is westbound.

Mr. GARDNER: Yes, sir; it is, and consulting our annual report you will see that from 26 to 28 per cent. of all car mileage of the Northwestern Railway is empty car mileage. That is not from choice, of course, but from necessity. We are hauling empty cars up into the lumber territory in Wisconsin. After while the grain traffic will start in and there will be no commercial coal traffic going out, and than we will have to haul empty cars out to bring grain back. That is the way it works. That has something to do with the fixing of the rate of freight, the rate on grain and other carload commodities. The expense is not just that of hitching a locomotive on at one end of a train and hauling it to the other end. That is a very small portion of the expense. You have to associate your cars with switch engines, and you have to classify them as to trains that are going to various localities and with reference to different consignees, because when we get them here in Chicago we deliver the grain to forty different places, and the switching, very frequently, of a carload of grain will cost as much, or more, as it does to haul it from Omaha to Chicago; and then we are subject to all the claims for detention. If we have derailments and wrecks and break up perhaps fifteen or twenty carloads of grain. All that goes into the expense.

COMR. PROUTY: What percentage of your receipts from train traffic do you pay out in the way of damages?

Mr. GARDNER: I cannot answer that. Our records will show that last year we paid out $600,000 for claims arising from or on account of personal injuries. Most of that was chargeable to freight trains, and half as much again for damages to freight. More or less of that was grain. Take the situation in Chicago last winter, when we had several hundred carloads of grain on our tracks here. There was great congestion here and we could not deliver the grain to consignees on other railroads on which their elevators and grain houses were located. The lines would not accept it. Meanwhile prices of grain went down, and consequently now we are negotiating on claims for damage.

COMR. FYSER: When is your heaviest movement of grain from the West? What time of year?

Mr. GARDNER: That varies, Mr. Fifer; it is sometimes be-
378 fore the holidays.

Com'r YEOMANS: Corn is not ready to move from the western country yet, is it?

Mr. GARDNER: No, sir; it is pretty wet. At the close of navigation, about that time, there is a scurrying of rates east and west of Chicago, and that very frequently brings on a movement of grain, but it has not this year.

Com'r PROUTY: It would be a comparatively easy matter to tell the cost of moving a train of grain from Omaha to Chicago, would it not?

Mr. GARDNER: I could tell the cost of engine service and train crew and coal, for instance.

Com'r PROUTY: What is about the cost per train mile of moving a train of 1,600 tons?

Mr. GARDNER: Is it 8 cents a mile for the engineer and firemen. It is 7 cents a mile for the conductor and two brakemen.

Mr. DAWES: Is that apiece?

Mr. GARDNER: No, sir; that is entire. Then your coal consumption will probably run 250 pounds for every 1,000 pounds of freight moved one mile; that is, with average weather. In severe weather it will be more than that. Then you have your oil and your waste and your repairs, which I cannot give you from memory. Oil and waste are not in large amount of course, and repairs are average.

Com'r FIFER: Repairs to engines and cars?

Mr. GARDNER: Yes, sir.

Com'r PROUTY: Have you some estimate of what would be a fair rental for an engine per mile?

Mr. GARDNER: No, sir; I have not; We charge $25.00 a day for rental of a locomotive.

379 Commissioner PROUTY: Do you think that is a fair compensation?

Mr. GARDNER: On an average.

Com'r PROUTY: Do you have an estimate of what is a fair charge for the use of a car per mile?

Mr. GARDNER: No; but I assume you know the per diem charge is 20 cents between railroads. We all, think that is exceedingly low. We generally get out of our cars on that basis about half what it costs us to repair them.

Com'r PROUTY: Do you not regard that as fair compensation?

Mr. GARDNER: No.

Com'r PROUTY: Would it be fair compensation to simply furnish that car for the purpose of hauling a carload of grain from Omaha, taking it upon the assumption that it came from Omaha to Chicago loaded and went back empty? Would a mileage of .6 of a cent be compensation for that car?

Mr. GARDNER: No, sir; I think one cent a mile would be more equitable, or $10.00.

Mr. COWAN: In your annual report, on page 43, for 1903, your printed annual report, it states that the expenses which you have just spoken of are as follows: Repairs and supplies for engines and

tenders per mile run, for the year 1902, amounted to 4.82 cents, and for the year 1903, 4.15 cents. That included repairs and supplies for engines and tenders per mile run?

Mr. GARDNER: Yes, sir.

Com'r PROUTY: What do you mean by supplies?

Mr. GARDNER: That is material, Mr. Commissioner,—new driving wheels, etc.

Mr. COWAN: Engineers, firemen, wipers, etc., per mile, for 1902, was 7.69 cents.

380 Mr. GARDNER: Yes, sir.

Mr. COWAN: For the year 1903 it was 8.10 cents.

Mr. GARDNER: Yes, sir.

Mr. COWAN: The next item *if* cost of oil, wa*t*se and tallow, per mile—.26 cent for the year 1902, and for 1903 it was .30 cent.

Mr. GARDNER: Yes, sir.

Mr. COWAN: Cost of fuel, for 1902, was 8.32 cents per mile run, and for the year 1903 it was 9.27 cents—about a cent a mile increase. The total cost per mile run by engines—that is, the addition of those figures above stated—was 20.65 cents for the year 1902, and 21.82 cents for 1903. Now, I assume that had reference to the total mileage of engines whether carrying empties or loads.

Mr. GARDNER: That includes switch locomotives, gravel trains, passenger trains and freight trains. You will find another division of it there in the report, that divides up the mileage of the different services. It is on the same page.

Mr. COWAN: This will all be considered in evidence. I want to ask you a question in regard to that. The cost per mile for pulling a train so far as engine service is concerned would be 21.82 cents. Another item of cost, so far as labor is concerned, with the train would be a conductor and two brakemen. That is on an average, I presume.

Mr. GARDNER: That I used for showing items of cost for actual movement of the train.

Mr. COWAN: I do not mean that that is the to-al cost for performing the service, but all the other expenses are to be incurred whether the traffic moves or does not move.

Mr. GARDNER: Therefore the volume of traffic has much to do with the cost.

381 Mr. COWAN: So as the volume of traffic has increased, you have carried it at less per mile?

Mr. GARDNER: On the volume of the particular thing which did increase.

Mr. COWAN: Even on the whole.

Mr. GARDNER: I think that if you will take the percentage of grain carried on our road for the last three or four years you will find that report that a smaller percentage was grain last year than had been for any time previous for three or four years, and I think our cost for carrying grain the last couple of years increased, whilst other commodities decreased.

Mr. COWAN: Do you know whether or not the revenue per ton per mile has gradually decreased, Mr. Gardner?

Mr. GARDNER: Do I know it?

Mr. COWAN: Yes, sir.

Mr. GARDNER: Why, it increased a little last year.

Mr. COWAN: From .82 to .87 cents?

Mr. GARDNER: Yes, sir; .87 or .88.

Mr. COWAN: The volume of your traffic has increased from 19,000,000 tons, in round numbers, to 30,000,000 in 1903.

Mr. GARDNER: That is hardly a fair way to state that. You say how many tons we move one mile. The number of miles that each ton has been carried has been gradually reduced, and that is quite a factor in estimating the cost to carry it.

Com'r PROUTY: That would indicate, however, that more business was becoming local?

Mr. GARDNER: Yes, sir.

Com'r PROUTY: And you receive a better rate for local business than through business.

Mr. GARDNER: And it costs a higher price to handle it.

Mr. COWAN: The estimate furnished by the Commission's Auditor shows that in 1900 the average number of tons per train mile
382 was 254, then increased to 267, and this year reduced to 249, and the gross revenue per train mile has increased from $1.48 in 1899 to $1.67 in 1903, making it higher than any time back of 1903. What is that due to?

Mr. GARDNER: To the heavier loading of trains.

Mr. COWAN: And in that item are reflected the economies of handling the business?

Mr. GARDNER: The economies of operation as signified by the transportation charge.

Mr. COWAN: One question that Mr. Farrell suggests; What are the curvatures of your road the maximum?

Mr. GARDNER: It is about six degrees.

Mr. COWAN: So your road is well situated in that particular?

Mr. GARDNER: Yes, sir.

Com'r PROUTY: You say it costs much more to handle local than through business.

Mr. GARDNER: Yes, sir.

Com'r PROUTY: Have you ever made any estimate of handling local and through traffic, like this grain from the Missouri River to Chicago?

Mr. GARDNER: I have not specifically; but I think it is apparent. For instance, if you start a train of 30 cars out of Omaha and you do not have to stop it at all until it gets to Chicago it costs much less than if you have a train starting out with 30 loads which have to be peddled out along the line and the train compelled to stop at every station and switch cars. It costs much more.

Com'r PROUTY: You have never made any estimate so you can state approximately the difference in dollars and cents?

Mr. GARDNER: No; I have not.

383 Mr. COWAN: Is it not a fact that you pay your train crews by the mile on those trains? and it costs the same?

Mr. GARDNER: It costs the same for that?

Mr. COWAN: Whether you stop or not?

Mr. GARDNER: Yes, sir.

Mr. COWAN: There is no addition to cost to local traffic whether you stop or not so far as the crew is concerned?

Mr. GARDNER: No, sir. Of course you get back to that old story about the long and short haul.

Mr. COWAN: Of course everybody knows that it is somewhat cheaper to do the through business. Do you know whether a rate of freight on grain from points 200 miles west of the Missouri River to Chicago—say, a distance of 600 or 700 miles,—of 26½ or 28½, is more than or less than it ought to be?

Mr. GARDNER: Categorically replying, I do not.

Mr. COWAN: There is evidence here with respect to a rate of 25 cents from Norfolk, Nebraska, to Chicago, a distance of 600 and some odd miles.

Com'r PROUTY: 650 miles.

Mr. COWAN: 650 miles. Have you any means of stating what the rate ought to be in order to yield you a proper return upon your investment and operation of that line?

Mr. GARDNER: I am not competent to reply intelligently to that.

Mr. COWAN: Who could do that, Mr. Gardner? Would it be worth while to make an effort to find some man who could do that?

Mr. GARDNER: I think it would be quite difficult to find a man who would have the courage to state.

Com'r YEOMANS: To say he could do what no one else has been able to do?

384 Mr. GARDNER: Yes, sir.

Mr. DAWES: And do what the Commission has not found it possible to do.

Mr. COWAN: So in making freight rates, it is a matter of arbitrary judgment on various conditions, and not an estimate of the amount of revenue they are entitled to—costs of service, or any one, two, or three items?

Mr. GARDNER: I am frank to confess that I do not know what inspiration they act from.

Mr. COWAN: It is a matter of inspiration?

Mr. GARDNER: They are always too low in my opinion.

Mr. COWAN: What return do you believe a railroad ought to earn upon the cost of the road?

Mr. GARDNER: Well, possibly you misjudge me, because you are talking about that report, and I have every day current prices of things costing 20 per cent. more now than when that book was published.

Mr. COWAN: Cost of what?

Mr. GARDNER: Of operating items; increase of pay have been made which have not yet become public in reports, not shown in that report, and we have just settled with our station men and telegraphers on a ten per cent. increase. Coal cost us four and a half million dollars last year. It will probably cost us six million dollars this year on account of increase price of 35 to 40 cents a ton.

Mr. COWAN: The recent reduction in the grain rate was not brought about by reduction in operating expenses, then?

Mr. GARDNER: No, sir; some kindness of heart than overlooked the present conditions.

Mr. COWAN: So as to these increases and reductions, are they brought by the fact of increases and reductions in operating expenses, or by other circumstances and conditions?

385 Mr. GARDNER: Well, I think at different times, for different reasons. Of course we are very methodical in exhibiting to the traffic department the increased expenditures that we are obliged to make in connection with operating expenses. A year or eighteen months ago I showed them the costs of material and of this and that thing and but recently exhibited to them the costs since July. Well, I think a year or eighteen months ago they responded to it, and now they have gone just the other way. So I presume that operating expenses is only one of the many things taken into consideration.

Mr. COWAN: It is not a matter of fact that notwithstanding the increase in operating expenses for the years 1901 and 1902, that net earnings of the lines leading out of here to the Missouri River and serving that territory were almost uniformly increased?

Mr. GARDNER: You see that ours did not. We showed a deficit of $55,000.

Mr. COWAN: It shows that there was applied in 1902 and charged to operating expenses, not put in the previous year, $1,500,000. If that were taken out, there would not be a decrease in net earnings, but in fact a large increase?

Mr. GARDNER: You mean by changing the method of charging?

Mr. COWAN: Yes, sir; changing the accounts so as not to charge that up to operating expenses.

Mr. GARDNER: Of course the roads have all had an enlarged volume of tonnage, and that had much to do with that.

Mr. COWAN: I do not believe there is any other question I want to ask.

Mr. DAWES: You have been asked about your road gen-
386 erally. Now as to rates you have had reference to the road between Chicago and Council Bluffs.

Mr. GARDNER: Yes, sir; entirely so.

Mr. LYNDE: That is what you meant by your questions.

Mr. COWAN: Yes, sir. Judge Prouty started out by asking about that line and I continued it.

Mr. LYNDE: As to this increased expense, in the way of increased cost of supplies, material and wages, what has been the average increase, say, for 1901, and 1902 and up to the present time, including the last advance? How much—25 per cent. or more?

Mr. GARDNER: I should say they would run about 22 per cent. probably.

Mr. LYNDE: Right through the list.

Mr. GARDNER: That is material as well.

Mr. LYNDE: If the road were to handle only a single class of freight between two points the proposition as to what would be a reasonable freight rate would be a comparatively simple one?

Mr. GARDNER: Yes, sir.

Mr. LYNDE: But take the Northwestern, which handles a thousand different commodities between a thousand different points; it makes the situation a very complicated one, does it not?

Mr. GARDNER: It does indeed.

Mr. LYNDE: As I understand it, these annual reports are considered in evidence?

Mr. COWAN: Yes, sir; they will be. Now, you said that 22½ per cent. would represent the increase in something. I did not precisely understand.

Mr. GARDNER: Material and wages.

387 Mr. COWAN: Now, will you make up a statement, or have your Auditor make it up, and furnish it to the Commission, as to wages, so that we may get at exact data in regard to what wages you were paying after June 30, 1903. Make up a statement of the increase in wages to employees since then, what the increase amounted to. It was stated on the previous hearing, in the Texas rate inquiry here, that wages had increased considerably, 10 or 15 per cent., but when we came to figure out the total increase it only amounted to a small per cent. on the total number of employees.

Mr. GARDNER: That would be very possible. I don't know that ours shows more than that on the total number of employees. But 10 per cent. on a man getting $2.00 a day is 20 cents, and on a man getting $1.00 a day is ten cents, and it is quite a difference.

Mr. LYNDE: We make this suggestion that in the interrogatories submitted calling for this specific information the wording was such as to embrace eleven months of the old schedule and simply one month of the new schedule, and that does not include these recent advances.

Mr. COWAN: I am talking about the recent advances; the advances up to June 30, 1903, are in the reports of the Commission. The advances since that time are what I have reference to.

Mr. LYNDE: I call attention to the fact that you made request for advances covering a certain period, and that period embraced about eleven months of the old schedule and only about one month of the new schedule.

Mr. COWAN: That request, however, was made in June, and it was supposed that a hearing would be had in September at that time.

388 Mr. LYNDE: What we will do, if satisfactory, we will furnish a statement of all advances that have been made, not merely recently, but since 1901. That is a fair period.

Mr. COWAN: Or if they are reductions put them in also.

Mr. GARDNER: I want to understand that. Say material and wages.

Com'r YEOMANS: Put in everything you want to.

Mr. COWAN: Put in everything you want to about the price of articles.

Com'r PROUTY: Do you apprehend these increased prices will continue?

Mr. GARDNER: For labor?

Com'r PROUTY: Take material.

Mr. GARDNER: There has been very little reduction in iron and steel material, which goes largely into railroad operation, but my opinion is that there will be some reduction in price.

Com'r PROUTY: How about timber?

Mr. GARDNER: We are paying more for ties.

Com'r YEOMANS: How much do you pay for ties?

Mr. GARDNER: 60 to 65 cents for oak ties and 70 cents for cedar.

Com'r YEOMANS: Where do your ties come from?

Mr. GARDNER: Principally from Michigan.

Com'r PR-UTY: Where do you get bridge timber?

Mr. GARDNER: We are getting that in Oregon, in the last two or three years.

Com'r PROUTY: Do you apprehend that the advance in wages will be permanent?

Mr. GARDNER: No; I do not think they all will be.

Mr. COWAN: There are some items here in the account of the Northwestern road you might know about. It appears from
389 your annual report for the year 1902 there was repayments account of overcharge to shippers of two million dollars and over.

Mr. GARDNER: That is beyond me. I do not know anything about that.

Mr. COWAN: And other repayments of over a million dollars?

Mr. GARDNER: I do not know about that.

Mr. COWAN: Who would know about that?

Mr. GARDNER: I don't know.

Com'r YEOMANS: Nobody. We never found anybody who did.

Mr. COWAN: You do not know who would know?

Mr. GARDNER: No, sir.

Mr. COWAN: Do you know of any matter in the operation of a railroad that would call for the payment back of such an enormous amount of money?

Com'r PROUTY: That is a traffic question, and he does not know about that. The Auditor could tell you what those items are.

Mr. COWAN: That is all.

Witness excused.

390 *Certificate.*

INTERSTATE COMMERCE COMMISSION
vs.
CHICAGO GREAT WESTERN RAILWAY COMPANY ET AL.

Consolidated Cases.

I, Solomon H. Bethea, Judge of the District Court of the United States, for the Northern District of Illinois, sitting as circuit judge and presiding at the trial of said entitled cause, do hereby certify that the foregoing is a complete record of the testimony, and exhibits offered and admitted in evidence, and of the proceedings had in the above entitled cause, contained in volumes No. 1 to 17 in-

clusive, and numbered from pages 1 to 2697 inclusive, and volume 18 as an appendix.

Signed and sealed this first day of June, 1906.

SOLOMON H. BETHEA, [SEAL.]
Trial Judge.

(Endorsed:) Filed June 1, 1906. Marshall E. Sampsell, Clerk.

391 NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION, *ss:*

I, Marshall E. Sampsell, Clerk of the Circuit Court of the United States of America, of the Seventh Judicial Circuit, in and for the Northern District of Illinois, do hereby certify the above and foregoing contained in one volume of Pleadings, pages 1 to 464 inclusive and in Volumes No. 1 to 17 inclusive and numbered from page 1 to 2697 inclusive and Volume 18, pages numbered from 1 to 403, being the certificate of evidence taken in said causes, to be a full, true and complete copy of the record and proceedings in the causes entitled Interstate Commerce Commission *vs.* Chicago Great Western Railway Company, *et al.* General Number 27,723 and Interstate Commerce Commission *vs.* Chicago Great Western Railway Company *et al.*, General Number 27,829, Consolidated Causes as the same remain of record and on file in the office of the clerk of said Court, and that the same constitute the return to the original citation issued herein and the several orders of extension to file the transcript of record made in said consolidated causes.

[Seal Circuit Court U. S., Northern Dist. Illinois. 1855.]

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at my office in the City of Chicago, in said District, this 1st day of June, 1906.

MARSHALL E. SAMPSELL, *Clerk.*

392 UNITED STATES OF AMERICA, *ss:*

I hereby accept service of the annexed citation, The Interstate Commerce Commission, appellant, against the Chicago Great Western Railway Company *et al.*, appellees, signed by Judge Solomon H. Bethea, dated January 15th, 1906, and returnable to the Supreme Court of the United States on the 13th day of February, A. D. 1906.

ED. BAXTER,
Solicitor and Counsel for The Burlington, Cedar Rapids & Northern Railway Co., The Chicago, St. Paul, Minneapolis & Omaha Railway Co., The Chicago & Alton Railway Company, The Chicago & Northwestern Railway Company, The Chicago, Burlington & Quincy Railroad Company, The Chicago, Milwaukee & St. Paul Railway Company, The Chicago, Rock Island & Pacific Railway Company, The Hannibal & St. Joseph Railroad Company, The Illinois Central Railroad Company, The Iowa Central Railway Company, The Kansas City, St. Joseph & Council Bluffs R. R. Co., The Minneapolis & St. Louis Railroad Company, The Quincy, Omaha & Kansas City Railroad Company, erroneously sued as the Omaha, Kansas City & Eastern Railroad Company,
Defendants and Appellees.

393 UNITED STATES OF AMERICA, *ss:*

To The Chicago Great Western Railway Company; The Burlington, Cedar Rapids & Northern Railway Company; The Chicago, St. Paul, Minneapolis & Omaha Railway Company; The Chicago & Alton Railway Company; The Chicago & Northwestern Railway Company; The Chicago, Burlington & Quincy Railroad Company; The Chicago, Milwaukee & St. Paul Railway Company; The Chicago, Rock Island & Pacific Railway Company; The Hannibal & St. Joseph Railroad Company; The Illinois Central Railroad Company; The Iowa Central Railway Company; The Kansas City, St. Joseph & Council Bluffs Railroad Company; The Minneapolis & St. Louis Railroad Company; The Missouri Pacific Railway Company; The Missouri, Kansas & Texas Railway Company; The Quincy, Omaha & Kansas City Railroad Company, erroneously sued as The Omaha, Kansas City & Eastern Railroad Company; The Wabash Railroad Company and The Wisconsin Central Railway Company, Original Defendants and Sioux City Stock Yards Company, St. Joseph Stock Yards Company; St. Paul Union Stock Yards Company, Railroad & Warehouse Commissioners of the State of Minnesota, T. M. Sinclair & Company, Limited; and the Union Stock Yards Company of Omaha, Intervenors, **Greeting:**

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to an Order allowing an Appeal, filed in the Clerk's Office of the Circuit Court of the United States for the Northern District of Illinois-Eastern Division, wherein, Interstate Commerce Commission is Appellant, and you are Appellees, to show cause, if any there be, why the Decree rendered against the said Appellant as in the said Petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Solomon H. Bethea, Judge this Fifteenth day of January, in the year of our Lord one thousand nine hundred and six.

S. H. BETHEA, *Judge.*

[Endorsed:] Nos. 27,723 & 27,829. Supreme Court of the United States. Interstate Commerce Commission, *vs.* Chicago Great Western Ry Co., *et al.* Citation of the Supreme Court of the United States.

394 UNITED STATES OF AMERICA, *ss:*

I hereby accept service of the annexed citation, The Interstate Commerce Commission, appellant, against the Chicago Great Western Railway Company *et al.*, appellees, signed by Judge Solomon H. Bethea, dated January 15th, 1906, and returnable to the Supreme Court of the United States on the 13th day of February A. D. 1906.

MILCHRIST & SCOTT,
Solicitors for Sioux City Stock Yards Company,
Defendant and Appellee.

[Stamped:] Circuit Court of the United States, Northern District of Illinois, Eastern Division. Filed Jan. 30, 1906. Marshall E. Sampsell, Clerk.

395 UNITED STATES OF AMERICA, *ss:*

I hereby accept service of the annexed citation, The Interstate Commerce Commission, appellant, against the Chicago Great Western Railway Company *et al.*, appellees, signed by Judge Solomon H. Bethea, dated January 15th, 1906, and returnable to the Supreme Court of the United States on the 13th day of February A. D. 1906.

CHAS. A. CLARK,
Solicitor for T. M. Sinclair & Co., Limited, Intervening Defendant and Appellee.

Dated Jan. 19, 1906.

[Stamped:] Circuit Court of the United States, Northern District of Illinois, Eastern Division. Filed Jan. 30, 1906. Marshall E. Sampsell, Clerk.

396 UNITED STATES OF AMERICA, *ss:*

I hereby accept service of the annexed citation, The Interstate Commerce Commission, appellant, against the Chicago Great Western Railway Company *et al.*, appellees, signed by Judge Solomon H. Bethea, dated January 15th, 1906, and returnable to the Supreme Court of the United States on the 13th day of February A. D. 1906.

FRANK T. RANSOM,
Solicitor for Union Stock Yards Company of Omaha (Limited), Defendant and Appellee.

[Stamped:] Circuit Court of the United States, Northern District of Illinois, Eastern Division. Filed Jan. 30, 1906. Marshall E. Sampsell, Clerk.

397 UNITED STATES OF AMERICA, *ss:*

We hereby accept service of the annexed citation, The Interstate Commerce Commission, appellant, against the Chicago Great Western Railway Company *et al.*, appellees, signed by Judge Solomon H. Bethea, dated January 15th, 1906, and returnable to the Supreme Court of the United States on the 13th day of February A. D. 1906.

JAMES HAGERMAN,
JOSEPH M. BRYSON,
Solicitors for Missouri, Kansas & Texas Railway Company, Defendant and Appellee.

[Stamped:] Circuit Court of the United States, Northern District of Illinois, Eastern Division. Filed Jan. 30, 1906. Marshall E. Sampsell, Clerk.

398 UNITED STATES OF AMERICA, *ss:*

I hereby accept service of the annexed citation, The Interstate Commerce Commission, appellant, against the Chicago Great Western Railway Company *et al.*, appellees, signed by Judge Solomon H. Bethea, dated January 15th, 1906, and returnable to the Supreme Court of the United States on the 13th day of February A. D. 1906.

STEPHEN S. BROWN,
Solicitor for St. Louis Stock Yards Company, Defendant and Appellee.

[Stamped:] Circuit Court of the United States, Northern District of Illinois, Eastern Division. Filed Jan. 30, 1906. Marshall E. Sampsell, Clerk.

399 UNITED STATES OF AMERICA, *ss:*

I hereby accept service of the annexed citation, The Interstate Commerce Commission, appellant, against the Chicago Great Western Railway Company *et al.*, appellees, signed by Judge Solomon H. Bethea, dated January 15th, 1906, and returnable to the Supreme Court of the United States on the 13th day of February A. D. 1906.

IRA B. MILLS,
Solicitor for Railroad and Warehouse Commission of the State of Minnesota, Intervener, Defendant and Appellee.

[Stamped:] Circuit Court of the United States, Northern District of Illinois, Eastern Division. Filed Jan. 30, 1906. Marshall E. Sampsell, Clerk.

400 UNITED STATES OF AMERICA, *ss:*

I hereby accept service of the annexed citation, The Interstate Commerce Commission, appellant, against the Chicago Great Western Railway Company *et al.*, appellees, signed by Judge Solomon H. Bethea, dated January 15th, 1906, and returnable to the Supreme Court of the United States on the 13th day of February A. D. 1906.

WELLS H. BLODGETT,
C. N. TRAVONS,
Solicitors for The Wabash Railroad Co., Defendant and Appellee.

[Stamped:] Circuit Court of the United States, Northern District of Illinois, Eastern Division. Filed Jan. 30, 1906. Marshall E. Sampsell, Clerk.

401 UNITED STATES OF AMERICA, *ss:*

I hereby accept service of the annexed citation, The Interstate Commerce Commission, appellant, against the Chicago Great Western Railway Company *et al.*, appellees, signed by Judge Solomon H.

Bethea, dated January 15th, 1906, and returnable to the Supreme Court of the United States on the 13th day of February A. D. 1906.

C. A. SEWELL & NICH,

Solicitor for Chicago Great Western Railway Company, St. Paul Union Stock Yards Company, Defendant and Appellee.

[Stamped:] Circuit Court of the United States, Northern District of Illinois, Eastern Division. Filed Feb. 5, 1906. Marshall E. Sampsell, Clerk.

[Stamped:] Circuit Court of the United States, Northern District of Illinois, Eastern Division. Filed Feb. 5, 1906. Marshall E. Sampsell, Clerk.

402 UNITED STATES OF AMERICA, ss.

I hereby accept service of the annexed citation. The Interstate Commerce Commission, appellant, against the Chicago Great Western Railway Company *et al.*, appellees, signed by Judge Solomon H. Bethea, dated January 15th, 1906, and returnable to the Supreme Court of the United States on the 13th day of February A. D. 1906.

MARTIN L. CLARDY &
JAMES C. JEFFERY,

Solicitors for Missouri Pacific Railway Company, Defendant and Appellee.

403 Service accepted by letter signed on behalf of Col. Blodgett by his direction and myself for the Wabash Railroad Company.

(Signed) C. N. BRANNON

Dated January 22nd, 1906.

404 [Endorsed:] 27723 & 27829. Circuit Court of the United States, Northern District of Illinois. Interstate Commerce Commission *vs.* Ch'go Great Western Ry. Co. *et al.* Orig. Citation. Circuit Court of the United States, Northern District of Illinois, Eastern Division. Filed Jan. 30, 1906. Marshall E. Sampsell, clerk.

405 Supreme Court of the United States, October Term, 1906.

No. 352.

THE INTERSTATE COMMERCE COMMISSION,

vs.

THE CHICAGO GREAT WESTERN RAILWAY COMPANY ET AL.

Appeal from the Circuit Court of the United States for the Northern District of Illinois, Eastern Division.

Statement by appellant under Clause 9 of Rule 10 of Rules of the Supreme Court of the parts of the record which appellant thinks

necessary for the consideration of the errors assigned as set out in the assignment of errors in the transcript of record, being all those parts of the record not hereinafter expressly designated as parts which may be omitted in the printing:

Omit in printing from volume of transcript of record entitled "Volume of Pleadings," the following:

1. Petition and other pleadings, orders and affidavits in case No. 27,829, extending from page 294 to page 334 of said volume, both inclusive, and from page 342 to page 380, both inclusive, and from page 412 to page 416, both inclusive.

406 2. Orders continuing the hearing from day to day from September 18 to October 14, 1905, on pages from 417 to 434, both inclusive.

Omit from "Volume 1," the following:

1. The report and opinion of the Commission and order of the Commission and certificate thereto by Edward A. Moseley, Secretary of the Commission, inserted between pages 63 and 64 of said volume.

(These are set forth in the "Volume of Pleadings" from page 6 to page 110, both inclusive.)

2. Opening statements of counsel beginning on page 6 and ending on page 32 of said volume 1.

Omit from "Volume 2," the following:

1. Tabulated statement showing number of head of live stock listed for taxation; also, number of head received at South St. Paul Stock Yards for the years 1898 to 1904, both inclusive. This statement is inserted in said volume between pages 103 and 104.

2. "Crosby's Exhibit No. 4," being certain live stock tariffs inserted in said volume between pages 130 and 131.

Omit from "Volume 3," the following:

1. All of "Gardiner Exhibit A", inserted between pages 329 and 330 of said volume entitled "Statement of Stockyards—Wisconsin Division," except the last page thereof immediately preceding page 330.

407 Omit from "Volume 4," the following:

1. The 45th Annual Report of the Chicago & Northwestern Ry. Co. for the year ending June 30, 1904, inserted between pages 392 and 393 of said volume, except pages 5, 6, 7, and 12 of said report and that part of page 13 beginning with the words, "Tons of steel rails, the greater portion of which," and ending with the words, "Aggregate 11,246 feet in length."

2. "Keeper's Exhibit No. 4," between pages 452 and 453 of said volume, being certain printed live stock tariffs of the Illinois Central R. R. Co., and a typewritten statement of "Rates on cattle and hogs C. L. from stations in Iowa on I. C. R. R. to Sioux City, Iowa."

3. "W. E. Keeper's Exhibit No. 3" between pages 444 and 445 of said volume, being a tabulated statement of three sheets.

Omit from "Volume 5," the following:

1. Rice's Exhibit No. 2 between pages 554 and 555 of said volume, except last two lines giving valuation of stockyards and annual cost of maintenance and operation.

2. Three pages of tabulated statement immediately preceding page

675 of said volume, said pages entitled, respectively, "Range of prices—cattle." "Range of prices—hogs." "Range of prices—sheep."

Omit from "Volume 6," the following:

498 1. "Timmore Exhibit No. 5," being all the matter consisting of tariffs and statement of rates, inserted in said volume between pages 751 and 752.

Omit from "Volume 7", the following:

1. All of Simpson's Exhibit No. 1 between pages 946 and 947 of said volume except the summary on page 1 of said exhibit.

Omit from "Volume 8", the following:

1. Flower Exhibit No. 3, between pages 1099 and 1100 of said volume, being map of Southern Minnesota counties, showing the receipts of South St. Paul from those counties for a period of five years (1900-1905, inclusive) of live stock and also in most cases showing the number of different kinds of live stock assessed for taxation in each county.

Omit from "Volume 9", the following:

1. Tomlinson's Exhibit No. 19 immediately following page 1189 of said volume, being 52nd annual report of the directors to 499 the stockholders of Illinois Central R. R. Co., for the year ended June 30, 1902, except page 1 of said report, that portion of top of page 2 beginning with the words "As compared with the preceding year," and ending with the words, "Surplus Dividend Fund has been augmented by, &c.," page 4, and tables 5, 6, 7 and 8 on pages 14 and 15.

2. Tomlinson's Exhibit No. 17 immediately following Tomlinson's Exhibit No. 19, *supra*, being the 53d Annual Report of the Directors to the Stockholders of the Illinois Central R. R. Co., for the year ended June 30, 1903.

3. Tomlinson's Exhibit No. 18 immediately following Tomlinson's Exhibit No. 17, *supra*, being 54th Annual Report of the Directors to the Stockholders of the Illinois Central R. R. Co., for the year ended June 30, 1904, except the heading on page 1 of said report beginning with the words "Illinois Central R. R. Co.," and ending with the words "The number of miles of railroad operated by the Illinois Central R. R. Co., on June 30, 1903, was 4,301.10," and that portion of said page beginning with the words "The average number of miles of railroad operated" to the end of said page, that portion of page 3 under titles, "Permanent Improvements," "Railroad and Equipment," and "Standards of Maintenance," and tables 5, 6, 7 and 8 on pages 14 and 15.

4. Dale Exhibit "X" between pages 1206 and 1207 of said volume, except page 1, heads of columns on page 2 and grand totals on last page.

5. Baird's Exhibit No. 1 between pages 1269 and 1270 of said volume, being rules and regulations of the Mississippi & Missouri and Chicago & Rock Island Railroads for the transportation of live stock.

6. Baird's Exhibit No. 2 immediately following page 1270 of said volume, being rules and regulations for the transportation of live stock.

410 7. Baird's Exhibit No. 3 immediately following Baird's Exhibit No. 2, *supra*, being rules and regulations for the transportation of live stock.

8. Baird's Exhibits Nos. 4, 5 and 6, between pages 1271 and 1272 of said volume, being rules and regulations for the transportation of live stock.

9. McCullough's Exhibit No. 6 immediately preceding page 1296 of said volume, being joint freight tariff on live stock of the Chicago & Northwestern Railway and other roads, effective June 20, 1905.

10. Map immediately following page 1300 of said volume, showing the lines of the Chicago & Northwestern Railway and the Chicago, St. Paul, Minneapolis and Omaha Railway.

11. McCullough's Exhibit No. 9, immediately following said map, being joint freight tariff on live stock of the Chicago & Northwestern and other Railways, effective June 20, 1905.

Omit from "Volume 10," the following:

1. All the freight tariffs, exhibits to testimony of Kenyon, immediately preceding page 1409 of said volume, beginning with freight tariff on live stock of the Chicago, Rock Island & Pacific Railway (lines east of the Missouri River) in connection with the Cleveland, Cincinnati, Chicago & St. Louis Railway, between Chicago,
411 Kankakee, Peoria, Illinois, &c., and stations on the Chicago, Rock Island & Pacific Railway in Iowa, Minnesota, South Dakota and Missouri, effective July 14, 1902, and ending with the tariff on live stock of the Chicago, Burlington & Quincy Ry. Co., between Omaha, South Omaha, &c., and stations in Wyoming (except Cheyenne line), Montana and South Dakota, taking effect October 24, 1904.

Omit from "Volume 11," the following:

1. The tabulated statements covering 16 pages attached to testimony of Crosby and preceding page 1502 of said volume except the general headings to wit, "The report of cars in train No. —," leaving "— at —," "arriving — at —," and the columns headed "Weight in tons," "Contents," "Final destination." The portions indicated for printing are marked in pencil X.

2. "Ripley Exhibit No. 1" following page 1613 of said volume, being 10th Annual Report of the Atchison, Topeka & Santa Fe Ry. Co., for the year ending June 30, 1905, except that portion of page 5 of said report, beginning with the words, "Office of the Atchison, Topeka & Santa Fe Railway System," and ending with the words, "The increase in the average number of miles operated compared with the preceding fiscal year was 125.81 miles," and that portion under the heading "Comparison of Operating Results" on pages 12, 13 and 14 of said report.

412 3. "Ripley Exhibit D" preceding page 1614 of said volume, being the 8th Annual Report of the Atchison, Topeka & Santa Fe Railway Company for the year ended June 30, 1903, except that portion of page 5 of said report, beginning with the words "Office of the Atchison, Topeka & Santa Fe Railway System" and ending with the words "Turned over to the Operating Department,"

and that portion of pages 14, 15 and 16 of said report under the heading "Comparison of Operating Results."

4. Ripley's exhibits marked "D the second and E" between pages 1621 and 1622 of said volume, being a large diagram showing comparative exhibit of average revenue, &c., and average tons per carload by commodities.

Omit from "Volume 14," the following:

1. The three printed tariffs between pages 2703 and 2704 of said volume, being (*a*) Joint Freight Tariff W. T. L. No. 202 of the Chicago & Alton Ry. Co., *et al.*, between Chicago, &c., and Sioux City, &c., effective October 1, 1905; (*b*) Joint Freight Tariff W. T. L. No. 181 of the Atchison, Topeka & Santa Fe Ry. Co., *et al.*, between Chicago, &c., and St. Paul, &c., effective January 1, 1904; (*c*) Joint
Freight Tariff W. T. L. No. 201 of the Atchison, Topeka &
413 Santa Fe Ry. Co., *et al.*, between Chicago, &c., and Kansas City, &c., effective September 5, 1905.

Omit from "Volume 15," the following:

1. Exhibit to Testimony of Charles W. Baker between pages 2204 and 2205 of said volume, showing Chicago's supremacy as the live stock market of the world.

2. Exhibit to testimony of Darius Miller, between pages 2265 and 2266 of said volume, being a printed book entitled "Tonnage Rating of Freight Engines, Galesburg Division, C. B. & Q. R. R."

3. Exhibits to testimony of Tomlinson Numbered 1, 2, 3, 4, 5, between pages 2344 and 2345 of said volume, being 39th Annual Live Stock Report of Union Stock Yards & Transit Company of Chicago, for year 1904; 34th Annual Report of Receipts and Shipments of Live Stock at Kansas City Stock Yards for the year 1904; 21st Annual Live Stock Report of Union Stock Yards, of Omaha, Neb., for year 1904; 18th Annual Report of the Sioux City Stock Yards Company for year 1904 and the St. Paul Union Stock Yards Company Live Stock Report for 1904, except that portion of the 39th Annual Live Stock Report of the Union Stock Yards & Transit Company of Chicago on pages from 47 to 58, both inclusive, of said
report, setting forth receipts and shipments by days for year
414 1904.

4. "Tomlinson's Exhibit No. 6 between pages 2346 and 2347 of said volume, being "The Cincinnati Price Current Statistical Annual for 1905," a "supplement to the Cincinnati Price Current."

Omit from "Volume 16," the following:

1. Maps attached to exhibit No. 9, Tomlinson, immediately preceding page 2409 of said volume.

Omit from "Volume 17," the following:

1. 10th Annual Report of the Chicago Great Western Railway Company for the year ended June 30, 1902, the first of three printed reports preceding page 2497 of said volume, except heading on page 5 of said report beginning with the words "Chicago Great Western Railway Company" and ending with the words "The Directors Submit the Following Report," and except "Table VIII—Statistics" on page 27 of said report.

2. Annual Report of the Chicago & Northwestern Ry. Co., for the 43d fiscal year, the second of the three annual reports preceding page 2497 of said volume, except pages 5 and 6, that portion of pages 13 and 14 beginning on page 13 with the words "For the Year ending May 31, 1902," and ending on page 14 with the words "aggregate 4329 feet in length," and pages 43, 46 and 48.

415 3. 22nd Annual Report of the Directors to the Stockholders of the Chicago, Rock Island & Pacific Ry. Co., preceding page 2497 of said volume except page 5 "Statement" on page 7 "Showing the details of earnings and percentage of operating expenses as compared with the previous fiscal year," that portion of pages 8 and 9, beginning with the words "Freight Earnings" near bottom of page 8 and ending on page 9 with the words "taxes show a decrease of $19,407.68 or 2.06 per cent.," page 25, being statement of traffic movement and earnings" and page 29 entitled "Summary."

4. Exhibits between pages 2630 and 2631 of said volume except "estimated weights of empty cars on printed slip and the columns headed "Contents," "Car mileage," and "Weight of car and contents in tons," in the 17 Conductor's Reports following said printed slip and the title of each of said reports enclosed in pencil mark on the backs thereof, and also the "Total tonnage" where shown and notations at bottom of each of said reports.

5. Tabulated statements of receipts of live stock by cars at Union Stock Yards Chicago immediately preceding page 2603 of said volume.

6th. 46th Annual Report of the Chicago & Northwestern Ry. Co., for the year ended June 30, 1905, the first of the printed annual reports preceding page 2637 of said volume, except pages 5, 6, 11 and 12 of said report.

7. Ninth Annual Report of the Atchison, Topeka & Santa Fe Railway Company for year ended June 30, 1904, the second of the printed annual reports, preceding page 2637 of said volume.

416 8. 49th Annual Report of the Board of Directors of the Chicago, Burlington & Quincy R. R. Co., to the stockholders for year ended June 30, 1903, the third of the printed annual reports preceding page 2637 of said volume, except pages 5, 7, 8, 19 and 20 of said report.

9. 50th Annual Report of the Board of Directors of the Chicago, Burlington & Quincy R. R. Co., to the stockholders, for the year ended June 30, 1904, immediately preceding page 2637 of said volume except pages 5, 6, 7, 8 and 16 of said report.

Omit from "Volume 18" the following:

1. Exhibits to testimony of Yapp before the Commission between pages 28 and 31 of said volume.

2. Two printed pamphlets between pages 50 and 175 of said volume each entitled "Laws relating to the Railroad & Warehouse Commission of the State of Minnesota."

3 38th Annual Report of the Chicago, Milwaukee & St. Paul Ry. Co., for year ended June 30, 1902, between pages 214 and 247 of said volume, except page 7 of said report, that portion of page 11

under head "Capital Stock," that portion of page 12 under head "Funded Debt," and pages 14, 15, 16, 17, 18, 30, 31.

S. H. COWAN,
Special Attorney.
L. A. SHAVER,
Solicitor for Appellant.

[Endorsed:] 352, 20317.

417 Supreme Court of the United States, No. 352. October Term, 1906.

THE INTERSTATE COMMERCE COMMISSION, Appellant,
vs.
THE CHICAGO GREAT WESTERN RY. CO. ET AL.

Personally appeared before me a Notary Public in and for the District of Columbia, L. A. Shaver, Esq., who being duly sworn, says on oath that on the 3d day of August, A. D., 1906, he mailed to Ed. Baxter, Esq., of Nashville, Tennessee, and to C. E. Severance, Esq., of St. Paul, Minnesota, attorneys for the defendants and intervenors in the above cause, at their respective addresses, copies of designation in said cause by appellant under Clause 9 of Rule 10 of Rules of the Supreme Court.

L. A. SHAVER,
Solicitor for Appellant.

Sworn to and subscribed before me this 3d day of August, 1906.

MARTIN S. DECKER,
[NOTARIAL SEAL.] *Notary Public.*

418 [Endorsed:] File No. 20317. Supreme Court U. S. October Term, 1906. Term No. 352. The Interstate Commerce Com'n, App't, *vs.* The Chicago Great Western Ry. Co. *et al.* Designation by appellant of parts of record to be printed with affidavit of service of same. Filed Aug. 3, 1906.

419 In the Supreme Court of the United States.

No. 352.

INTERSTATE COMMERCE COMMISSION
vs.
CHICAGO GREAT WESTERN RAILWAY COMPANY ET AL.

Appeal from the Circuit Court of the United States for the Northern District of Illinois, Eastern Division.

Statement by the Appellee, The Union Stock Yards Company of Omaha, (Limited), Intervener, Designating Parts of the Record to be Printed in this Case in Addition to the Parts Designated by Counsel for the Appellants.

Counsel for the appellee, The Union Stock Yards Company of Omaha (Limited), Intervener, having seen a copy of the statement filed in this court by Counsel for appellant designating the "Parts of the record which the appellants think unnecessary for the consideration of errors assigned, and which may be omitted in printing the record," and Counsel for said appellee understanding from said statement that Counsel for the appellants by their said statement intend to and do indicate thereby that all of the record in the case shall be printed except such parts as are designated in said statement as being unnecessary * * * Counsel for the appellee, Union Stock Yards Company of Omaha (Limited), intervener, hereby designate the following additional parts of the record which they think necessary and material to be printed as part of the record:

420 All of the exhibits to Mr. Kenyon's testimony except the Railroad Freight Tariff sheets, said tariff sheets to be omitted and there described in appellants' designation of omissions from volume 10 of the Record.

FRANK T. RANSOM,
Sol. for Union Stock Yards Company of Omaha (Limited), Appellee.

421 [Endorsed:] No. 352. Supreme Court United States. Interstate Commerce Commission *vs.* Chicago Great Western Railway Company *et al.* Statement by appellee, Union Stock Yards Company of Omaha (Limited), Intervenor, designating parts of record to be printed in addition to parts designated by counsel for appellants.
352, 20317, Aug. 8, '06.

422 [Endorsed:] File No. 20,317. Supreme Court U. S. October Term, 1906. Term No. 352. Interstate Commerce Commission, app't, *vs.* Chicago Great Western Railway Co. *et al.* Designation by appellee, The Union Stock Yards Co. of Omaha, limited, intervenor, of additional parts of record necessary to be printed. Filed August 8, 1906.

423 Supreme Court of the United States, October Term, 1906.

No. 352.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CHICAGO GREAT WESTERN RAILWAY COMPANY ET AL.

Appeal from the Circuit Court of the United States for the Northern District of Illinois, Eastern Division.

Statement by the Burlington, Cedar Rapids & Northern Railway Company; the Chicago, St. Paul, Minneapolis & Omaha Railway Company; the Chicago & Alton Railway Company; the Chicago & Northwestern Railway Company; the Chicago, Burlington & Quincy Railroad Company; the Chicago, Milwaukee & St. Paul Railway Company; the Chicago, Rock Island & Pacific Railway Company; the Hannibal & St. Joseph Railroad Company; the Illinois Central Railroad Company; the Iowa Central Railway Company; the Kansas City, St. Joseph & Council Bluffs Railroad Company; the Minneapolis & St. Louis Railroad Company; and the Quincy, Omaha & Kansas City Railroad Company, appellees in the above entitled cause, under Clause 9, Rule 10 of Rules of the Supreme Court, of the parts of the record which said appellees think it material should be printed, in addition to those parts heretofore designated by appellant as necessary to be printed.

1. W. E. Keepers' Exhibit No. 3, between pages 444 and 445 of Volume 4, being a tabulated statement of three sheets.

2. Ripley's Exhibits marked "D the second and E," between pages 1621 and 1622 of Volume 11, being a large diagram showing comparative exhibit of average revenue, &c., and average tons per carload by commodities.

424 3. Exhibit to Testimony of Charles W. Baker, between pages 2204 and 2205 of volume 15, showing Chicago's supremacy as the live-stock market.

ED. BAXTER,
Solicitor for The Burlington, Cedar Rapids & Northern Railway Co., The Chicago, St. Paul, Minneapolis & Omaha Ry. Co., The Chicago & Alton Railway Company, The Chicago & Northwestern Railway Company, The Chicago, Burlington & Quincy Railroad Co., The Chicago, Milwaukee & St. Paul Railway Co., The Chicago, Rock Island & Pacific Railway Co., The Hannibal & St. Joseph Railroad Co., The Illinois Central Railroad Co., The Iowa Central Railway Co., The Kansas City, St. Joseph & Council Bluffs R. R. Co., The Minneapolis & St. Louis Railroad Co., The Quincy, Omaha & Kansas City Railroad Co., erroneously sued as the Omaha, Kansas City & Western R. R. Co.

352, 20317, Sep. 4, 1906.

425 [Endorsed:] File No. 20,317. Supreme Court U. S., October Term, 1906. Term No. 352. The Interstate Commerce Commission, app't, *vs.* The Chicago Great Western Railway Co. *et al.* Designation by certain appellees of additional parts of record necessary to be printed. Filed Sept. 4", 1906.

Endorsed on cover: File No. 20,317. N. Illinois, C. C. U. S. Term No. 352. The Interstate Commerce Commission, appellant, *vs.* The Chicago Great Western Railway Company *et al.* Filed July 28, 1906. File No. 20,317.